UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

JAMES E PARSONS
SKJERVEN MORRILL MACPHERSON LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110-1349

COPY MAILED

DEC 26 2001

OFFICE OF PETITIONS

In re Application of
Seo, et al.
Application No. 09/816,599
Filed: March 23, 2001
Attorney Docket No. AB-1111 US
Title: SEMICONDUCTOR PACKAGE INCLUDING STACKED CHIPS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition, filed August 29, 2001, under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 petitioner is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 23, 2001. On June 19, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, petitioner filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time. Accompanying the petition were: (1) a declaration of facts by Attorney James E. Parsons, describing the efforts to obtain signatures from inventors Jae Hun Ku and Jae Hak Yee; and (2) copies of cover letters, signed by Attorney Axel Chan, dated April 16, 2001 and May 18, 2001.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the **application papers (specification, claims and drawings)**; (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (1).

As to item (1), the petition and accompanying evidence have been carefully considered. However, it has not been demonstrated that a copy of the application papers (comprising the specification, claims, and drawings) was sent to the non-signing inventors.

Regarding an inventor's refusal to join in the application, the Manual of Patent Examining Procedure states:

> It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 U.S.P.Q. 80 (Comm'r Pat. 1956).
>
> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.

MPEP 409.03(d).

Here, petitioner has only demonstrated that an attempt was made to contact the non-signing inventors (through counsel) to determine whether they were "**willing to review** the applications and sign the respective Declarations for Patent Application and Power of Attorney, and Assignments." Letter of April 16, 2001 (emphasis added). The letter does not indicate that any of the application papers were in fact enclosed. Furthermore, the Declaration of James E. Parsons also does not state that the application papers were sent to the nonsigning inventors. On request for reconsideration, such statement must come from the person having firsthand knowledge that the application papers were sent.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Assistant Commissioner for Patents Box DAC Washington, D.C. 20231
By FAX:	(703) 308-6916 Attn: Office of Petitions
By hand:	Crystal Plaza Four, Suite 3C23 2201 S. Clark Place Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] "The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted." MPEP 409.03(d).

OIPE JC152
FEB 19 2002
PATENT & TRADEMARK OFFICE

DAC
4760 #10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Seong Min Seo, Young Suk Chung, Jong Sik Paek, Jae Hun Ku, Jae Hak Yee		
Assignee:	Amkor Technology, Inc.		
Title:	Semiconductor Package Including Stacked Chips		
Serial No.:	09/816,599	Filing Date:	March 23, 2001
Examiner:	Not Yet Assigned	Group Art Unit:	2811
Docket No.:	AB-1111 US		

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San Jose, California
February 19, 2002

BOX DAC
COMMISSIONER FOR PATENTS
Washington, D. C. 20231

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(A)

Dear Sir:

A Decision Refusing Status Under 37 CFR 1.47(a) was mailed on December 26, 2001.

Subsequently, the inventors who previously did not sign an inventor Declaration, namely, Jae Hun Ku and Jae Hak Yee, have executed a Declaration for Patent Application. The executed Declaration is enclosed herewith. Accordingly, the Petition is moot. Please put copies of the executed Declaration for Patent Application in the file of the application, and please notify the undersigned that the matter is resolved.

EXPRESS MAIL LABEL NO:
EL 937 082 926 US

Respectfully submitted,

James E. Parsons
Attorney for Applicants
Reg. No. 34,691

LAW OFFICES OF
SKJERVEN MORRILL
MACPHERSON LLP

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SEP 05 2002
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Paper No. 13

JAMES E PARSONS
SKJERVEN MORRILL MACPHERSON LLP
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SAN JOSE CA 95110-1349

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SEP 2 0 2002

OFFICE OF PETITIONS

In re Application of Seo, et al. Application No. 09/816,599 Filed: March 23, 2001 Attorney Docket No. AB-1111 US Title: SEMICONDUCTOR PACKAGE INCLUDING STACKED CHIPS	DECISION WITHDRAWING THE HOLDING OF ABANDONMENT, NOTING JOINDER OF INVENTOR, AND PETITION UNDER 37 CFR 1.47(a) MOOT

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", filed February 19, 2002, under 37 CFR 1.47(a).[1]

The above-identified application was filed on March 23, 2001. On June 19, 2001, petitioner was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, petitioner filed a petition under 37 CFR 1.47(a) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time. Accompanying the petition were: (1) a declaration of facts by Attorney James E. Parsons, describing the efforts to obtain signatures from inventors Jae Hun Ku and Jae Hak Yee; and (2) copies of cover letters, signed by Attorney Axel Chan, dated April 16, 2001 and May 18, 2001.

However, this petition was dismissed in a decision mailed on December 26, 2001. Petitioner failed to demonstrate that the nonsigning inventors had been presented with a copy of the application papers. The decision on petition set a two-month period for reply.

A Notice of Abandonment was mailed on August 8, 2002 for failure to timely respond to the Decision on Petition mailed December 26, 2002. On petition, Petitioner has submitted a copy of a USPTO stamped postcard receipt showing that a "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" was timely filed on February 19, 2002.

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[1] Supplemented by a facsimile transmission received August 26, 2002.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

In addition, at the time of the writing of this decision, the original "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" stamped February 19, 2002 has been found and entered into the application file.

In view thereof, the Notice of Abandonment is hereby VACATED, and the holding of abandonment is WITHDRAWN.

On renewed petition, petitioner has submitted a declaration executed by inventors Jae Hun Ku and Jae Hak Yee. The declaration has been found to be in compliance with 37 CFR 1.63.

In view of the **JOINDER** of the inventors, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be **MOOT**. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The application is being forwarded to the Office of Initial Patent Examination for continuation of pre-examination processing.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

E. Shuene Willis for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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ALEXANDRIA, VA 22313-1450
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Paper No. 11

Bradley J. Bereznak
Blakely, Sokoloff, Taylor & Zafman, LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1030

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OCT 2 2 2003
OFFICE OF PETITIONS

In re Application of
Ueno et al.
Application No. 09/816,601
Filed: March 23, 2001
Attorney Docket No. 073600.P029

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 8, 2003, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed December 26, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on March 27, 2003. A Notice of Abandonment was mailed on September 5, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.

Karen Creasy for
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Bradley J. Bereznak
800 W. El Camino Real, Suite 180
Mountain View, CA 94040

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 18

BRADLEY J. BEREZNAK
BURGESS & BEREZNAK, LLP
800 WEST EL CAMINO REAL
SUITE 180
MOUNTAIN VIEW CA 94040

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JAN 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Ueno et al.	:	
Application No. 09/816,601	:	ON PETITION
Filed: March 23, 2001	:	
Attorney Docket No. 73600.P029	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 28, 2004, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed January 14, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 15, 2004. A Notice of Abandonment was mailed November 5, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

On December 8, 2004, the petition fee increased from $1370.00 to $1500.00. Accordingly, an additional $120.00 will be charged to petitioner's deposit account as authorized.

The file is now being forwarded to Technology Center 1700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEMAIRE PATENT LAW FIRM, PLLC
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ST. PAUL MN 55111

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Jenson, et al :
Application No. 09/816,602 :
Filed: March 23, 2001 :
Attorney Docket No. 1327.010US1 :
For: DEVICE ENCLOSURES AND DEVICES WITH INTEGRATED BATTERY

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2004 (certificate of mailing date September 26, 2004), to revive the above-identified application.

The above-identified application became abandoned for failure to timely reply to the final Office action of February 24, 2004. Therefore, this application became abandoned on May 25, 2004. A Notice of Abandonment was mailed on September 8, 2004.

Applicants have submitted a reply in the form of a proper RCE and amendment, an acceptable statement of the unintentional nature of the delay in responding to the February 24, 2004 final Office action, and the petition fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center G.A.U. 1746 for further examination.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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MAR 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Mark Lynn Jenson :
Application No. 09/816,603 :
Filed: March 23, 2001 :
Attorney Docket No. 1327.009US1 :

ON PETITION

This is a decision on the petition, filed February 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 4, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1745 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEMAIRE PATENT LAW FIRM PLLC
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ST. PAUL, MN 55111

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Mark Lynn Jenson	:	
Application No. 09/816,603	:	DECISION GRANTING PETITION
Filed: March 23, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1327.009US1	:	

This is a decision on the petition, filed August 3, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 2, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1745 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : November 22, 2006

Patent No. :7,117,374
Inventor : Hill et al.
Patent Issued :October 3, 2006
Docket No. :12110
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in the Attorney, Agent, or Firm, since the Attorney, Agent, or Firm is printed *solely* in accordance with the PTOL-85b (Issue Fee Transmittal), submitted at time of payment of the base issue fee, no correction is in order here under the provisions of Rules 1.322.

In view of the foregoing, your request is hereby denied.

Any petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By Mail: PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100). Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

ORUM & ROTH
53 WEST JACKSON BOULEVARD
CHICAGO IL 60604-3606

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 8

ROBIN M SILVA ESQ
FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
SUITE 3400
FOUR EMBARCADERO CENTER
SAN FRANCISCO CA 94111-4187

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JUN 0 7 2002

OFFICE OF PETITIONS

In re Application of
Walt, et al.
Application No. 09/816,651
Filed: March 23, 2001
Attorney Docket No. A-67209-4/RMS/DCF

DECISION ON PETITION

This is a decision on the petition filed March 4, 2002 (Certificate of Mailing dated February 21, 2002), pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed May 3, 2001. This Notice set a period for reply of two months from the mail date of the Notice to submit the filing fees and an executed oath or declaration (and surcharge for its late filing). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. No filing fees or oath or declaration having been received, the above-identified application became abandoned on July 4, 2001. The mailing of the instant decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted the filing fees together with an executed declaration (and the surcharge for its late filing), paid the petition fee, and made the proper statement of unintentional delay.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $980 extension of time fee submitted with the petition on March 4, 2002 was subsequent to the maximum period obtainable for reply (December 3, 2001), this fee has been refunded to petitioner's Deposit Account 06-1300.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

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SEP 19 2001

OFFICE OF PETITIONS

In re Application of
Ryuji Ueno et al
Application No. 09/816,655
Filed: March 26, 2001
Attorney Docket No. Q58513

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 2, 2001, to accept an unintentionally delayed claim under 35 USC 119(e) for the benefit of a prior filed provisional application.

The petition is **dismissed** as moot for the reasons stated below.

The petition under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior filed provisional application must be accompanied by: (1) the surcharge of $1,240 set forth in 37 CFR 1.17(t); (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5) and the date the claim was filed was unintentional; and (3) include a reference to each prior provisional application in an application data sheet (§ 1.76) or be contained in the specification or amended to contain such reference in the first sentence following the title. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 26, 2001, within twelve months of the filing date of the prior provisional application, Application No. 60/191,755, which was filed on March 24, 2000 (March 24, 2001 is a Saturday), for which priority is claimed. The petition was submitted during the pendency of the nonprovisional application seeking the benefit of the prior provisional application. A reference to the prior provisional application has been included in the transmittal for the application, but was not included at the time of filing in an oath or declaration or in the first sentence of the specification following the title.

The current procedure where a claim for priority under 37 CFR 1.78(a)(5) is not included the first sentence of the specification or on an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. However, on the other hand, if the PTO does not note the claim for priority to the provisional application in the oath or declaration or transmittal letter

submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(6). In the instant case, the Office noted the claim for priority of the provisional application in the transmittal letter, as indicated by Office computer database records.

Petitioner states that the filing of the sworn English translation of U.S. Provisional Application No. 60/191,755 in the nonprovisional application was inadvertently not docketed after the rule change and that the deadline for filing the sworn translation was not discovered until after the period set forth under 37 CFR 1.78(a)(5). Therefore, petitioner requests acceptance of an unintentionally delayed claim under 35 USC 119(e) for the benefit of a prior filed provisional application.

Provisional Application No. 60/191,755 was filed on March 24, 2000 in the Japanese language. In view thereof, a Notice to File Missing Parts of Provisional Application was mailed on May 18, 2000, requiring the submission of an English translation and a $130 surcharge fee. In response, a verified English language translation and a $130 surcharge fee were received on July 18, 2000.

Since the verified English language translation was filed in the provisional application within the required period set forth in 37 CFR 1.78(a)(5), the instant petition under 37 CFR 1.78(a)(6) is unnecessary and is dismissed as involving a moot issue.

In view of the above, the $1,240 petition fee submitted is unnecessary and will be credited to Deposit Account No. 19-4880.

Any inquiries concerning this decision may be directed to the undersigned at 305-8680.

This application is being forwarded to the Office of Initial Patent Examination Division for preexamination processing. Afterwards, the application will be forwarded to Technology Center Art Unit 1614 for processing the amendment filed September 6, 2001, and for consideration by the examiner of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior provisional application, Application No. 60/191,755, filed on March 24, 2000.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
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JUL - 1 2002

#12

FINNEGAN HENDERSON FARABOW GARRETT
& DUNNER LLP
C/O LESLIE A MCDONELL
1300 I STREET NW
WASHINGTON DC 20005-3315

In re Application of	:
Meike Lorenz et al	:
Serial No.: 09/816,697	: PETITION DECISION
Filed: March 23, 2001	:
Attorney Docket No.: 08702.0005-00000	:

This is in response to applicants' petition under 37 CFR 1.181, filed June 25, 2001, seeking acceptance of a reply as timely.

BACKGROUND

A review of the file history shows that this application was filed on March 23, 2001. According to applicants the examiner telephoned applicants' representative during the week of February 4, 2002, proposing a restriction requirement and seeking a telephonic election. A formal written restriction requirement was mailed to applicants at the address of their representatives, Lahive and Cockfield, on February 11, 2002. Applicants indicate that a telephone call was made to the examiner prior to March 4, 2002, in which an election with traverse was made. Applicants' present representatives indicate that the Office action was not received by them until March 5, 2002, as it was sent to applicants' previous representatives. Applicants aver that after receiving the Office action that a telephone call was made to the examiner to determine if a formal written response was required with the examiner replying that none was needed. Thus no written reply was forwarded to the Office until later inquiry determined that the examiner had left the Office without any further action on the application.

DISCUSSION

It is Office policy when making a restriction requirement in an application to inquire of applicants or their representatives whether they are willing to make a telephonic election. Determination of whether to propose a restriction requirement by telephone is made by the examiner based on the complexity of the requirement with the result being incorporated as part of the next Office action. Where there are groups of claims directed to less than five distinct and independent inventions a telephonic request is almost always made. Where there are more than ten groups, or other

complicating factors exist, the requirement is almost always written. Examiners, when making a telephonic request, frequently allow an applicant a few days to consider the proposed requirement and respond with a telephonic election. In this application, according to applicants' representative, a telephone restriction requirement was proposed with applicant requesting time to consider the requirement before making an election. It is not clear if or when applicant actually replied by telephone, however it appears not to have been within a reasonable time period in the examiner's opinion. Thus the examiner mailed a written restriction requirement to applicants at the address of record approximately one week after first making a telephonic proposal.

It is noted that applicants' petition does not indicate who received the proposed telephonic restriction requirement nor who purportedly replied by telephone. It is also not clear as to when the present attorneys became responsible for the prosecution of this application. It is, however, clear that a new Power of Attorney appointing the above attorneys as applicants' representatives was not filed until May 17, 2002, fully three months after the requirement was mailed, and two months after it was received by the present representatives of applicants. It is also regrettable that no record of any telephone calls made or received by the examiner exist in the file. Applicants have also failed to provide any evidence of telephone calls received from or made to the Office.

It is clear from the rules of practice as well as the guidelines of M.P.E.P. 812.01 that when telephone practice for making a restriction requirement fails to elicit an election in a timely manner an Office action is mailed to applicants formally setting forth the restriction requirement and setting a period for reply, usually one month which may be extended under 37 CFR 1.136(a), within which applicants must reply (see M.P.E.P. 701-710.02(e)). Although a telephone reply can be made, a formal written reply is required. Applicants did not file a formal written reply until June 25, 2002, thus requiring an extension of time of four months and the fee therefor.

DECISION

Applicants' petition is **DENIED**.

The application will be forwarded to the examiner for further action commensurate with the response to the restriction requirement.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-7230.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT SAMUEL SMITH
1263 EMORY ST.
SAN JOSE, CA 95126

COPY MAILED

JUN 24 2005

OFFICE OF PETITIONS

In re Application of	:	
John Claras	:	
Application No. 09/816,718	:	ON PETITION
Filed: March 21, 2001	:	
Attorney Docket No. RSJC	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed July 16, 2004. Accordingly, this application became abandoned on October 17, 2004. A Notice of Abandonment was mailed on April 28, 2005.

The file is being forwarded to Technology Center 2800, for review of the amendment, filed April 19, 2005, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BOZICEVIC FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK CA 94025

COPY MAILED

JUN 2 4 2004

OFFICE OF PETITIONS

In re Application of
Rajendra S. Bhatnagar
Application No. 09/816,737
Filed: March 23, 2001
Attorney Docket No. UCAL-223CON2

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT DETERMINATION," filed June 2, 2004.[1] Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. §154(b) be reviewed for accuracy.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**. The determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred fifteen (115) days.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **one hundred fifteen (115) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 13, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified

[1] This application for patent term adjustment was timely filed, as it was filed after the mailing of the Notice of Allowance and before payment of the issue fee.

application. The Notice stated that the patent term adjustment to date is two hundred forty-seven (247) days.

The Office initially determined a patent term adjustment of two hundred forty-seven (247) days based on an adjustment for PTO delay of one hundred thirty (130) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), and one hundred thirty-two (132) days, pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by twelve (12) days and (3) days of Applicant delay, both pursuant to 37 C.F.R. §1.704(b).

The PTO delay of 132 days has been found to be incorrect. Applicant filed an RCE on March 2, 2004. In response, the Office mailed a Notice of Allowance on May 13, 2004, within the four month time period set forth in 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(3). Accordingly, no PTO delay should have been assessed for the mailing of the May 13, 2004 Notice of Allowance.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred fifteen (115) days** (130 days of PTO delay, reduced by 15 (12 + 3) days of Applicant delay).

To the extent that this letter was submitted to advise the Office of an error in Applicant's favor, the $200.00 application fee under 37 C.F.R. §1.705(b) was not required, and has not been charged. The Office thanks Applicant for his good faith and candor in bringing this matter to the attention of the Office.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Kery Fries for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of adjusted PAIR calculation

#7

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/816,763	03/23/2001	Jose Remacle	VANM212.001AUS

OIPE JC26
OCT 01 2001
PATENT & TRADEMARK OFFICE

CONFIRMATION NO. 4780

FORMALITIES LETTER

OC000000006110791

20995
KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

Date Mailed: 05/24/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

10/03/2001 JADDO1 00000039 111410 09816763

02 FC:205 65.00 OP
03 FC:203 153.00 OP
04 FC:204 140.00 OP
05 FC:201 25.00 CH 345.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $288.
  - **$153** for **17** total claims over 20.
  - **$135** for multiple dependent claim surcharge.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 708.**

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b),

or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of: Remacle et al. Serial No.: 09/816,763 Filed: March 23, 2001 Attorney Docket No.: VANM212.001AUS	: : : : :	DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on August 1, 2005, requesting withdrawal of the holding of abandonment based on the timely filing of a response to the Office action mailed January 1, 2005.

A review of the file history shows that the examiner mailed an Office action to applicant on January 1, 2005, setting a three-month statutory time period for reply. On July 13, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action.

Applicants state that a timely response to the Office action was filed on July 6, 2005, as evidenced by the Certificate of Mailing date of July 6, 2005; and received by the USPTO on July 8, 2005, as evidenced by the return receipt stamped postcard identifying the papers filed.

In view of this evidence, applicant is considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application will be forwarded to the examiner for consideration of the Response of July 6, 2005.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or facsimile at 703-872-9306.

Marianne C. Seidel for

Jasemine Chambers
Director, Technology Center 1600

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FEB 08 2005

OFFICE OF PETITIONS

DYKAS, SHAVER & NIPPER, LLP
P.O. BOX 877
802 WEST BANNOCK STREET, SUITE 405
BOISE ID 83701

FAX RECEIVED
CANCELLED
FEB 08 2005

OFFICE OF PETITIONS

In re Application of	:	
Lowe et al.	:	
Application No. 09/816,764	:	ON PETITION
Filed: 23 March, 2001	:	
Attorney Docket No. LOWM101	:	

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on 3 November, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 10 July, 2004, for failure to timely file corrected drawings as required by the Notice of

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Allowability mailed on 9 April, 2004, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 21 October, 2004.

The application file is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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APR 16 2004

JANET E. REED ESQ.
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE-46TH FLOOR
PHILADELPHIA PA 19103

In re Application of	:
Ira J. Fox et al	:
Serial No.: 09/816,785	: PETITION DECISION
Filed: March 22, 2001	:
Attorney Docket No.: UNMC-0032	:

This is in response to the petition under 37 CFR 1.181, filed August 7, 2003, for withdrawal of abandonment based on non-receipt of an Office action. The delay in acting on this petition is regretted.

A review of the file history shows that this application was filed with a correspondence address of: SAUL EWING, CENTRE SQUARE WEST, 1500 MARKET STREET, 38TH FLOOR, PHILADELPHIA, PA 19102-2186. The Office mailed a Notice of Missing Parts to applicant at that address on May 23, 2001, requiring submission of a signed declaration. The declaration was filed on February 15, 2002, and appointed Janet E. Reed at the above address as attorney of record. Through inadvertence this change of correspondence address was not recorded when processing the application. Thus the first Office action was mailed to the Saul Ewing address on June 21, 2002. A change of correspondence address form was also filed July 15, 2002. When no reply was received a Notice of Abandonment was mailed to the corrected correspondence address. The Office erred in failing to record the correct correspondence address. In view of the Office error in not utilizing the correct correspondence address, the Notice of Abandonment is withdrawn and the application is restored to pending status with the mailing of this decision.

The petition is **GRANTED**.

The application will be forwarded to the examiner for remailing of the Office action of June 21, 2002.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 703-872-9306.

Bruce M. Kisliuk
Director, Technology Center 1600

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE-45TH FLOOR
PHILADELPHIA PA 19103

COPY MAILED
DEC 0 7 2006
OFFICE OF PETITIONS

In re Application of	:	
FOX, et al.	:	
Application No. 09/816,785	:	DECISION ON PETITION
Filed: March 22, 2001	:	TO WITHDRAW
Attorney Docket No. UNMC -0032	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 4, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to John W. Caldwell of WOODCOCK WASHBURN LLP has been revoked by the assignee of the patent application on October 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DANN, DORFMAN, HERRELL & SKILLMAN**
1601 MARKET STREET, SUITE 2400
PHILADELPHIA, PA 19103-2307

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/816,785	03/22/2001	Ira J. Fox	UNMC -0032

CONFIRMATION NO. 5547

OC000000021508428

JANET E. REED ESQ.
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE-45TH FLOOR
PHILADELPHIA, PA 19103

Date Mailed: 12/07/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/816,785	03/22/2001	Ira J. Fox	UNMC -0032

CONFIRMATION NO. 5547

OC000000021508457

00110
DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA, PA 19103-2307

Date Mailed: 12/07/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/31/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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JUL 22 2004

BRET E FIELD
BOZICEVIC FIELD & FRANCIS LLP
200 MIDDLEFIELD ROAD
SUITE 200
MENLO PARK CA 94025

In re Application of	:
Annette Bistrup et al	:
Serial No.: 09/816,825	: PETITION DECISION
Filed: March 22, 2001	:
Attorney Docket No.: UCAL-107	:

This is a response to the petition under 37 CFR 1.59(b), filed April 14, 2004, to expunge information from the above identified application. This application has not yet been allowed.

Petitioner requests that documents submitted April 14, 2004, as a Proprietary Information Disclosure Statement be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The examiner has considered the documents and found them not to have an adverse impact on the patentability of the present claims. In view of the examiner's the information is being returned with this decision

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number.

Bruce M. Kisliuk
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 12-01

Paper No. 9

JAMES E. PARSONS
SKJERVEN MORRILL MACPHERSON LLP
25 METRO DRIVE, SUITE 700
SAN JOSE, CA 95110-1349

COPY MAILED

DEC 1 8 2001

OFFICE OF PETITIONS

In re Application of	:	
Seo, Chung, Paek, Ku & Yee	:	
Application No. 09/816,852	:	DECISION REFUSING STATUS
Filed: 23 March, 2001	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. AB-1128 US	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 29 August, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 23 March, 2001, with a declaration naming Seong Min Seo, Young Suk Chung, Jong Sik Paek, Jae Hun Ku, and Jae Hak Yee as joint inventors and signed by joint inventors Seo, Chung, and Paek on behalf of themselves and joint inventors Ku and Yee. Petitioners assert that Ku and Yee have refused to sign the declaration for the application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventors. Petitioners have shown that a letter was sent to counsel for ST Assembly Test Service, Ltd. (STATS), which petitioners state they believe is the current employer of Ku and Yee, asking for Ku and Yee to review the application and sign the declaration. There is no showing, however, that Ku and Yee were ever given the opportunity to review the application papers. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.[1] Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventors at their last known addresses (or that of the inventors' attorneys) or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventors refuse to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

---

[1] MPEP 409.03(d).

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 06-02

Paper No. 12

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

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JUN 1 3 2002

OFFICE OF PETITIONS

In re Application of	:
Seo, Chung, Paek, Ku & Yee	:DECISION NOTING JOINDER OF
Application No. 09/816,852	:INVENTOR AND PETITION UNDER
Filed: 23 March, 2001	:37 CFR 1.47(a) MOOT
Attorney Docket No. AB-1128 US	:

Papers filed on 19 February, 2002, in response to the decision mailed on 18 December, 2001, included a Declaration signed by the previously non-signing joint inventors, Jae Hun Ku and Jae Hak Yee, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

Receipt of the revocation and power of attorney filed on 21 February, 2002, is acknowledged.

This application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

#13
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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AUG 13 2003

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AUG 13 2003

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TC 3600

Howrey Simon Arnold & White, LLP
1299 Pennsylvania Avenue, N.W.
Box 34
Washington, DC 20004

In re application of	:	
Fredrik Sundqvist et al.	:	DECISION ON PETITION
Application No. 09/816,867	:	TO RESET A PERIOD
Filed: March 23, 2001	:	FOR REPLY
For: PARKING BRAKE	:	

This is in reply to the Petition to Reset a Period for Reply Due to Late Receipt of an Office action, received in the Patent and Trademark Office on June 16, 2003.

The petition is **GRANTED**.

In accordance with MPEP 710.06, the Office will grant a petition to reset the period for reply when the following criteria are met: (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address; (B) a substantial portion of the set reply period had elapsed on the date of receipt (e.g. at least 1 month of a 2- or 3- month reply period had elapsed); and (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address, and (2) a statement setting forth the date of receipt of the Office action at the correspondence address and explaining how the evidence being presented establishes the date of receipt.

A review of the file record reveals that a final Office action was mailed to the address of record on April 23, 2003. The evidence provided by applicants in the petition, a copy of the Office action having a receipt date (the date of receipt of the Office action at the correspondence address of record) stamp of June 12, 2003, is sufficient to show that the Office action was not actually received until June 12, 2003. Applicants' petition meets all of the remaining elements (A)–(C) outlined above, and therefore the petition is **GRANTED**.

The application is being forwarded to the Supervisory Legal Instruments Examiner to reset the period for response to run 3 months from the Office action receipt date of June 12, 2003.

Telephone inquiries relative to this decision should be directed to me at the number below.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

snm/tpl: 8/13/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MEYERTONS, HOOD, KIVLIN, KOWERT &
GOETZEL, P.C.
P.O. BOX 398
AUSTIN TX 78767-0398

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SEP 30 2005

OFFICE OF PETITIONS

In re Patent No. 6,934,744	:	
Sogabe et al.	:	DECISION ON REQUEST FOR
Issue Date: August 23, 2005	:	RECONSIDERATION OF
Application No. 09/816,873	:	PATENT TERM ADJUSTMENT
Filed: March 22, 2001	:	
Attorney Docket No. 5664-00200	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT; AND APPLICATION FOR PATENT TERM ADJUSTMENT" filed July 8, 2005. Patentees request that the patent term adjustment indicated in the patent be corrected from six hundred seventy-five (675) days to one thousand two hundred forty-five (1245) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under § 1.136.

On August 23, 2005, the above-identified application matured into U.S. Patent No. 6,934,744. The instant request for reconsideration filed July 8, 2005, was timely filed along with payment of the Issue Fee. The Patent issued with a Patent Term Adjustment of 675 days. Patentees request correction of the patent term adjustment to increase the patent term adjustment to 1245 days on the basis that the patent issued 3 years and 519 days after the date on which the application was filed (and patentees agree with the periods of reduction totaling 9 days).

It is agreed that the instant patent issued 3 years and 519 days after its filing date. However, if an application is entitled to

an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 684 days attributable to grounds specified in § 1.702(a)(1) overlaps with the 519 days attributable to the delay in the issuance of the patent. Thus, the period of adjustment cannot exceed the actual number of days of delay of 684 days.

In view thereof, the patent properly issued with a patent term adjustment of 675 days (684 - 9 days).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 4

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JUL 03 2001

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

KENNETH D. SIBLEY
MYERS BIGEL SIBLEY & SAJOVEC
POST OFFICE BOX 37428
RALEIGH, NC 27627

In re Application of :
Susan Michalowski et al. :
Application No. 09/816,894 :
Filed: March 23, 2001 :
Attorney Docket No. 5051.401XXDV :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Inquiries related to this communication should be directed to the Office of Petitions Staff at(703) 305-9285

This file is being forwarded to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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FEB 15 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kaminsky, et al. :
Application No. 09/816,918 :
Filed: March 23, 2001 :
Attorney Docket No. 03551-P0001A :

This is a decision on the petition under 37 CFR 1.137(b), filed November 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed March 29, 2004. Accordingly, this application became abandoned on June 30, 2004. A Notice of Abandonment was mailed on October 15, 2004.

The file is being forwarded to Technology Center 3600 for review of the response, submitted November 12, 2004, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

#10
DW

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAR 24 2003

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MAR 24 2003

OFFICE OF THE DIRECTOR
TC 3600

John R. Benefiel
280 Daines Street, Suite 100B
Birmingham, MI 48009

In re Application of :
David J. Bauer et al. :
Application No. 09/816,955 :
Filed: March 23, 2001 :
For: PREWEAKENED AUTOMOTIVE INTERIOR TRIM PIECE FOR COVERING AN AIR BAG INSTALLATION IN AN AUTOMATIVE VEHICLE

DECISION ON PETITION TO ACCEPT A LATE COMMUNICATION

This is in response to applicants' communication filed in the United States Patent and Trademark Office (USPTO), on October 8, 2002 and supplemented on February 21, 2003. This communication is being treated as a petition to accept a late communication under 37 CFR 1.181. There is no fee for this petition.

The petition is **GRANTED**.

A review of the file record indicates that a Final rejection setting a three month shortened statutory period was mailed to the applicants on May 22, 2002.

Applicants have submitted, on October 8, 2002, a copy of a Notice of Appeal bearing a Certificate of Mailing date of August 21, 2002. Applicants submitted, on February 21, 2003, a statement by John R. Benefiel attesting to the personal knowledge of mailing the response on the date indicated on the Certificate of Mailing. This is sufficient evidence of a timely response.

Since a timely response to the final Office action was filed, the application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the Notice of Appeal. The two-month time period for filing an Appeal Brief will be reset as of the date of mailing of this decision.

Randolph A. Reese

Randolph A. Reese, Special Program Examiner
Patent Technology Center 3600
(703) 308-2121
(703) 605-0586 (facsimile)

RAR/tpl: 3/21/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 18

WHYTE HIRSCHBOECK DUDEK S.C.
111 E WISCONSIN AVENUE, SUITE 2100
MILWAUKEE, WI 53202

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Er-Xuan Ping et al :
Application No. 09/816,962 :
Filed: March 23, 2001 :
Attorney Docket No. MTI-31041 :

This is a decision on the petition, filed by facsimile transmission on April 28, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 28, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WHYTE HIRSCHBOECK DUDEK SC
555 EAST WELLS STREET, SUITE 1900
MILWAUKEE, WI 53202

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of	:
Er-Xuan Ping et al	:
Application No. 09/816,962	: DECISION GRANTING PETITION
Filed: March 23, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MTI-31041	:

This is a decision on the petition, filed June 8, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 25, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 10

Law Offices of Dale B. Halling
24 S. Weber, Suite 311
Colorado Springs CO 8090

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OCT 22 2004

OFFICE OF PETITIONS

In re Application of :
Bossemeyer :
Application No. 09/817,005 :
Filed: March 23, 2001 :
Attorney Docket No. AMT-9707C1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 12, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply timely to the Notice to File Missing Parts of Nonprovisional Application mailed May 4, 2001, which set a two-month extendable period to respond. No extensions of time were obtained pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on July 5, 2001. A Notice of Abandonment was mailed on July 7, 2003.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Robert Wesley Bossemeyer Jr.
Application No. 09/817,005
Filed: March 23, 2001
Attorney Docket No. AMT-9707C1

This is a decision on the petition, filed August 31, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the petition under 37 CFR 1.78(a)(3), filed August 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/932,078, filed September 17, 1997.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.313(c)(2):

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

As to the petition under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[2]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on March 23, 2001. A reference to the prior-filed nonprovisional application has been included in an amendment, as required by 37 CFR 1.78(a)(3).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 , the petition to accept an unintentionally delayed claim of benefit to the prior-filed application is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

---

[2] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

A corrected Filing Receipt, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (571) 272-3208.

This application is being referred to Technology Center Art Unit 2626 for consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of prior-filed nonprovisional Application No. 08/932,078, filed September 17, 1997.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
09/817,005	03/23/2001	2626	1612	AMT-9707C1	32	5

CONFIRMATION NO. 5713

CORRECTED FILING RECEIPT

OC000000025673135

34431
HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

Date Mailed: 09/05/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Robert Wesley Bossemeyer JR., St. Charles, IL;

Assignment For Published Patent Application

Ameritech Corporation

Power of Attorney: The patent practitioners associated with Customer Number **34431**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/436,296 11/08/1999 PAT 6,249,760
which is a CON of 08/932,078 09/17/1997 PAT 6,012,027
which is a CIP of 08/863,462 05/27/1997 PAT 6,847,717

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US09/817,005

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND APPARATUS TO PERFORM SPEECH REFERENCE ENROLLMENT

Preliminary Class

704

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPARTMENT
PEORIA, IL 61629-6490

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AUG 0 8 2003

OFFICE OF PETITIONS

In re Application of
Michael A. Calamari et al
Application No. 09/817,011
Filed: March 23, 2001
Attorney Docket No. 98-808-1

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(a)

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed July 28, 2003, to revive the above-identified application.[1]

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 23, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 24, 2001.

The evidence submitted is sufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the reply to the Notice of April 23, 2001 is accepted as having been unintentionally delayed.

As authorized, the following current fees in effect have been assessed to petitioner's deposit account: $750 for the filing fee and $130 for the surcharge fee.

Inquiries specific to this decision on petition may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to the Office of Initial Patent Examination for completion of the pre-examination process.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] This petition is captioned for Application No. 09/815,920; however, the correspondence attached thereto is captioned for the instant application. Since it is clear that the petition was intended for the instant application, the petition has been treated as having been filed in this application.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSEN & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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NOV 02 2005

OFFICE OF PETITIONS

In re Application of:	:	
Remacle et al.	:	
Application No. 09/817,014	:	DECISION ON
Filed: March 23, 2001	:	PETITION
For: IDENTIFICATION OF BIOLOGICAL	:	
(MICRO) ORGANISMS BY DETECTION OF	:	
THEIR HOMOLOGOUS NUCLEOTIDE	:	
SEQUENCES ON ARRAYS	:	

This is a decision in response to the Petition Under 37 CFR 1.181(a), to Withdraw Holding of Abandonment Based on Evidence that a Reply was Timely Mailed or Filed, filed October 14, 2005.

The petition is **granted.**

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action mailed March 18, 2005. The Office action set a three (3) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply on Monday, September 19, 2005. The reply comprised a Request for Continued Examination ("RCE"), a submission in the form of an Amendment and an Information Disclosure Statement ("IDS"), and a return postcard.

In support of Applicant's assertion, that a timely reply to the non-final Office action was filed, Applicant files a copy of the filing, and a copy of a return-receipt postcard evidencing receipt of, *inter alia*, an RCE; Amendment; three (3) month extension-of-time request, and IDS.

A review of the Application file reveals that the Office timely received an RCE; Amendment; three (3) month

extension-of-time request, and IDS on September 21, 2005 (Certificate of Mailing dated (Monday), September 19, 2005).

The MPEP provides that the required reply to a non-final Office action may be an Amendment under 37 CFR 1.111. Accord MPEP 711.03(c). While this Office notes that an RCE is an improper reply to a non-final Office action, the Amendment represented a bona-fide attempt to advance the application to final action. See, 37 CFR 1.135(c).

In this instance, Applicant timely filed an Amendment in response to the non-final Office action. As such, the holding of abandonment is improper and is hereby withdrawn.

The RCE filing fee has been refunded to Applicant's deposit account as authorized in the instant petition.

The application file is being referred to Technology Center 1637 for consideration of the Amendment filed September 19, 2005, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAMILTON & TERRILE, LLP
IBM Austin
P.O. BOX 203518
AUSTIN, TX 78720

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OFFICE OF PETITIONS

In re Application of Rabindranath Dutta Application No. 09/817,090 Filed: March 26, 2001 Attorney Docket No. AUS920010053US1	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 16, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the non-final Office action mailed November 17, 2004. A Notice of Abandonment was mailed on October 6, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2176 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Rabindranath Dutta	: DECISION ON REQUEST FOR
Patent Number	: 7617446	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/817,090	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/26/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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INTERNATIONAL BUSINESS MACHINES CORPORATION
c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

COPY MAILED

AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Dutta, et al.	:	
Application No. 09/817,102	:	ON PETITION
Filed: March 26, 2001	:	
Attorney Docket No. AUS920010044US1	:	
For: SYSTEM AND PROCESS FOR ENHANCING METHOD CALLS OF SPECIAL PURPOSE OBJECT-ORIENTED PROGRAMMING LANGUAGES TO HAVE SECURITY ATTRIBUTES FOR ACCESS CONTROL		

This is a decision on the petition, filed July 2, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the June 28, 2005 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on September 29, 2005. A Notice of Abandonment was mailed on January 12, 2006.

Applicants have submitted an amendment in reply to the June 28, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 28, 2005 non-final Office action, and the $1,500.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2131 for consideration of the amendment filed on July 2, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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Paper No. 25

NIXON & VANDERHYE PC
1100 N GLEBE ROAD, 8TH FLOOR
ARLINGTON, VA 22201-4714

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DEC 0 9 2003

OFFICE OF PETITIONS

In re Application of
Takashi Kojima
Application No. 09/817,133
Filed: March 27, 2001
Attorney Docket No. 2635-75

: DECISION GRANTING PETITION
: UNDER 37 CFR 313(c)(2)

This is a decision on the petition, filed December 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 12, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8680.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2829 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JENKINS, WILSON, TAYLOR & HUNT, PA
3100 TOWER BOULEVARD
SUITE 1200
DURHAM, NC 27707

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FEB 2 0 2007

OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,965,199 :
Issue Date: November 15, 2005 :
Application No. 09/817,164 :
Filed: March 27, 2001 :
Attorney Docket No. 421/170/6 :

This is a notice regarding your request filed June 30, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

JAN 28 2003

td

Mailed:

Paper Number 8

In re application of
Hiramatsu et al.
Serial No. 09/817,251
Filed: March 27, 2001
For: METHOD FOR STIRRING LIQUID

DECISION ON PETITION

This is a decision on the PETITION UNDER 37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION mailed November 6, 2002.

On February 15, 2002, a non-final office action was mailed to applicant rejecting all of the claims under 35 USC 102 and/or 35 USC 103. A reply to the office action was filed by applicants on August 15, 2002. In the reply, applicants made several amendments to the claims. A final office action was mailed by the office on November 6, 2002 containing new grounds of rejection. Applicants made a request to the examiner to withdraw the finality of the November 6, 2002 office action. This request was denied.

On December 18, 2002 the instant petition under 37 CFR 1.181 was timely filed to formally request the withdrawal of finality of the November 6, 2002 office action.

Petitioner's position for the withdrawal of the finality is that the new grounds of rejection in the final office action were not necessitated by applicant's amendments to the claims.

DECISION

Section 706.07 of the MPEP states:

706.07(a) Final Rejection, When Proper on Second Action

Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Petitioner argues that because claims 6 and 8 were not rejected over the Hargen reference in the first office action and then newly rejected over this reference in the final office action, the rejection was improperly made final. Claim 6 is a dependent claim of claim 1. Claim 8 is an independent claim. Claim 1 was rejected over the Hargen reference in the non-final office action under 35 USC 102 as being anticipated. In the amendment filed by applicants, claim 1 was narrowed. The examiner maintained the rejection of claim 1 over Hargen in the final office action and added a rejection of claim 6 under 35 USC 103 over this reference. It is noted that the examiner rejected claim 6 under 35

USC 102 over a separate reference in the non-final office action. The amendment filed by applicant overcame this rejection and required the examiner to apply a 35 USC 103 rejection to claim 6. The fact that the examiner did not reject claim 6 over Hargen in the non-final office action does not make petitioner's argument persuasive because the examiner rejected the claim using 35 USC 102, which is a stronger rejection than a 35 USC 103 rejection. Any 35 USC 103 rejection would have been merely cumulative and unnecessary. With respect to independent claim 8, this claim was not rejected over Hargen in the non-final office action. The claim was narrowed in the amendment filed and then rejected over Hargen in the final office action. Because the Hargen reference was applicable to the narrower amended claim, the claim should have been rejected over Hargen in the non-final office action. Therefore, the non-final office action mailed February 15, 2002 was incomplete. Petitioner's argument that the new grounds of rejection were not necessitated by Applicant's amendments are persuasive.

Because the rejection of claim 8 based on a new ground of rejection was improper, the finality of the office action was premature. Accordingly, the petition for withdrawal of finality is **GRANTED.**

It is also pointed out that while the finality of the office action has been withdrawn, the rejection still stands. Applicant's time for response continues to run from November 6, 2002. Extensions of time may be obtained to file any amendments.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 29 2008

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of	:	
Masanori Kawashima	:	
Application No. 09/817,300	:	DECISION GRANTING PETITION
Filed: March 27, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 35.C15221	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 8, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2157 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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UNITED STATES PATENT AND TRADEMARK OFFICE
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www.uspto.gov

Peter A. Businger, Esq.
344 Valleyscent Avenue
Scotch Plains, NJ 07076-1170

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FEB 09 2006

OFFICE OF PETITIONS

In re Patent of	:	
Vetterli et al.	:	
Application No. 09/817,314	:	DECISION
Filed: March 26, 2001	:	ON PETITION
Title of Invention:	:	
AUTOMATED ANNOTATION OF A VIEW	:	

This is a decision on the Petition to Revive Unintentionally Abandoned Application or Lapsed Patent (37 CFR 1.137(b), filed October 18, 2005. The delay in treating this petition is regretted.

The petition is **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 16, 2002. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on October 17, 2002. A Notice of Abandonment was mailed on July 1, 2003.

Applicant files the instant petition, Preliminary Amendment, Revocation and New Power of Attorney, and Statement under 37 CFR 3.73 (b) asserting that Ecole Polytechnique Federale de Lausanne is the patent owner by virtue of an assignment by the inventors, a copy of which was putatively attached to the Statement under 37 CFR 3.73(b).

A review of the petition papers filed on October 18, 2005 reveal that no assignment was filed therewith. A further review of Office records reveal that no assignment of the above-identified application has been recorded with this Office.

Accordingly, Applicant has failed to establish a right to take action in this application in accordance with 37 CFR 3.73(b).

As such, the merits of the petition will not be considered, and the petition is dismissed as inappropriate.

A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Cc: BLANK ROME LLP
ATTN: PETER S. WEISSMAN
600 NEW HAMPSHIRE AVENUE., N.W.
WASHINGTON, DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Paper No. 12

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

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MAY 18 2006

OFFICE OF PETITIONS

In re Patent of	:	
Vetterli et al.	:	
Application No. 09/817,314	:	DECISION
Filed: March 26, 2001	:	ON PETITION
Title of Invention:	:	
AUTOMATED ANNOTATION OF A VIEW	:	

This is a decision on the Renewed Petition Under 37 CFR 1.136(a), filed April 7, 2006, and re-filed march 9, 2006, to revive an unintentionally abandoned application. The petition is properly treated under 37 CFR 1.137(b).

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed July 16, 2002. The Office action set a three (3) month period for reply. No extensions of time having been obtained under 37 CFR 1.136(a), this application became abandoned on October 17, 2002. A Notice of Abandonment was mailed on July 1, 2003.

A petition to revive the application filed October 18, 2005, was dismissed in a Decision mailed February 9, 2006, because Petitioner had not demonstrated that he was a proper party in interest.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). A response to the Office action was filed October 18, 2005. Accordingly, the petition is granted.

This application is being forwarded to Technology Center Art Unit 2671 for processing of the response, filed October 18, 2005, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

SIERRA PATENT GROUP, LTD.
1657 HWY 395, SUITE 202
MINDEN, NV 89423

In re Application of	:	
Natalia I. Afanassieva	:	
Application No. 09/817,361	:	DECISION ON PETITION
Filed: March 20, 2001	:	TO WITHDRAW
Attorney Docket No. AFAN-003	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 11, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kenneth D'Alessandro on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

There is an outstanding Office action mailed July 31, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NATALIA I. AFANASSIEVA
1273 MEADOW SWEET DRIVE
MADISON, WI 53719

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/817,361	03/20/2001	Natalia I. Afanassieva	AFAN-003

CONFIRMATION NO. 2342

OC000000021185112

OC000000021185112

28661
SIERRA PATENT GROUP, LTD.
1657 Hwy 395, Suite 202
Minden, NV 89423

Date Mailed: 11/09/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

OIPE JC144
JUN 28 2001
PATENT & TRADEMARK OFFICE

PATENT
Docket No. SIROS-028

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit: 2881 Examiner:

Serial No.: 09/817,362 Filed: March 20, 2001

In re Application of: Robert L. Thornton

For: A MULTI-CHANNEL DWDM TRANSMITTER BASED ON A VERTICAL CAVITY SURFACE EMITTING LASER

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail, in an envelope addressed to Director of Patents Box Missing Parts, Washington, D.C. 20231 on 06-25-2001, *Signed* [signature]
Gerry Ubau

RESPONSE TO NOTICE TO FILE MISSING PARTS

Director of Patents
Box Missing Parts
Washington, D.C. 20231

Dear Sirs:

Responsive to the Notice to File Missing Parts dated June 5, 2001, please find enclosed herewith:

1. Executed Declaration and Power of Attorney;
2. Check in the amount of $ 1237.00 for a small entity calculated as follows:

Filing Fee	$ 355.00
4 Independent Claims over 4	$ 160.00
73 Total Claims over 20	$ 657.00
Surcharge	$ 65.00
Total	$1237.00

3. Copy of Notice to File Missing Parts.

In the event any variance exists between the amount enclosed and the patent office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, the Assistant Commissioner is hereby authorized to charge or credit the difference to our Deposit Account No. 50-0612. An additional copy of this page is enclosed.

Respectfully submitted,
Sierra Patent Group, Ltd.

Dated: 6-25-01

Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, NV 89449
(775) 586-9500

Andrew V. Smith
Reg. No. 43,132

OIPE JC144
JUN 28 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/817,362	03/20/2001	Robert L. Thornton	SIROS-000014

CONFIRMATION NO. 2338

FORMALITIES LETTER

OC000000006120746

Andrew V. Smith
Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, NE 89449

Date Mailed: 06/05/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $1634.
  - **$1314** for **73** total claims over 20.
  - **$320** for **4** independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 2474.**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 14, 2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No 09/817374 patent no7288567

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1624
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

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MAY 01 2002

OFFICE OF PETITIONS

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York NY 10005-1413

In re Application of
Wise, *et al.*
Application No. 09/817,439
Filed: March 26, 2001
For: SYSTEM AND METHOD FOR ESTIMATING CONDUIT LIQUIDITY REQUIREMENTS IN ASSET BACKED COMMERCIAL PAPER

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the January 8, 2002 petition under 37 C.F.R. §1.47(b).

Petition History

This application was filed on March 26, 2001. However, the application lacked a declaration signed by the inventor as required by 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68. Accordingly, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application (hereinafter "notice") to the address of record on May 3, 2001. The notice requested a signed declaration and set a two month period for replying. A copy of this petition was then received by the office on January 8, 2001. The petition included a request for a four month extension of time, which with the certificate of mailing dated October 26, 2001, was timely.

THE RULE

37 C.F.R. §1.47

(a) ...

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

ANALYSIS

A review of the rule above shows that a grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.[1]

---

[1] *See* 37 C.F.R. §1.47 "Filing when an inventor refuses to sign or cannot be reached."

Petitioner has failed to satisfy requirements one (1) and five (5) above.

Proof that the non-signing inventors cannot be reached or refuse to sign the oath or declaration.

Before a refusal to sign can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, the address of the nonsigning inventor's attorney.[2] No showing of delivery of the application papers to the inventor has been made. Rather, all that has been alleged or shown is that a declaration and assignment papers were mailed to the inventors. Of course, before signing a declaration stating that one has read and understood the contents of the application, it is necessary that one be actually presented with a copy of the declaration to review. The papers in this instance, as delivered to the inventors, could not be truthfully signed because the inventors had not been given an application to review. Accordingly, the inventors have not refused to sign after being given an opportunity to review the application within the meaning of 37 C.F.R. §1.47.

Furthermore, as to inventor Pellegrini, the showing consists of a copy of the letter sent to his last known address coupled with a certified return receipt form and a copy of the envelope, marked with a USPS stamp reading that the letter was unclaimed. It is noted that the stamp used on the envelope has an option that the postal delivery man could have used to indicate refusal of delivery; that option was not marked. Thus, it is not clear whether Mr. Pellegrini refused delivery or simply was not home at the time that the letter was delivered. Further attempts are warranted.

Proof of proprietary interest.

The Manual of Patent Examination Procedure (hereinafter "M.P.E.P.") explains that when an application is treated under 37 C.F.R. §1.47(b), it must be proved that as of the date of filing:

(A) the invention has been assigned to the applicant, or

(B) the inventor has agreed in writing to assign the invention to the applicant, or

(C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.[3]

No showing has been made that any of the three above-cited conditions exists. An unsigned copy of the Applicant's "Worldwide Rules" has been included with this petition. These rules appear to assign to Applicant inventions conceived or developed during the course of employment. Additionally, in a declaration by Andrew N. Cadel, it is alleged that each of the inventors acknowledged receipt of these rules and of an intent to abide by them. However, no evidence is submitted of the inventors assent to these rules. Copies of the alleged assent to them that Mr. Cadel attests to are requested upon reconsideration.

---

[2] M.P.E.P. §409.03(d) "Proof of Unavailablility or Refusal"

[3] *M.P.E.P. §409.03(f)*

Therefore, *this petition is* ***dismissed***.

Petitioner is given TWO MONTHS from the mailing date of this decision to respond, correcting the above-noted deficiency. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5593

Scott M. Ledford
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 6

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SEP 03 2002

OFFICE OF PETITIONS

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York NY 10005-1413

In re Application of
Wise, *et al.*
Application No. 09/817,439
Filed: March 26, 2001
For: SYSTEM AND METHOD FOR ESTIMATING CONDUIT LIQUIDITY REQUIREMENTS IN ASSET BACKED COMMERCIAL PAPER

DECISION REFUSING STATUS UNDER 37 C.F.R. §1.47(b)

This is in response to the June 3, 2002 petition under 37 C.F.R. §1.47(b).

Petition History

This application was filed on March 26, 2001. However, the application lacked a declaration signed by the inventor as required by 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68. Accordingly, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application (hereinafter "notice") to the address of record on May 3, 2001. The notice requested a signed declaration and set a two month period for replying. A copy of this petition was then received by the office on January 8, 2001. The petition included a request for a four month extension of time, which with the certificate of mailing dated October 26, 2001, was timely.

In a decision dated May 1, 2002, that petition was dismissed for failure to adquately show that the non-signing inventor had been presented with an opportunity to properly review the application before signing and for failure to establish Petitioner's proprietary interest. The decision set a two month period for replying

Petitioner followed with this renewed petition on June 3, 2002, which was timely.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. In addition, Petitioner has shown that has a proprietary interest in the above-identified application with the Assignment from inventor to dated. Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and demonstrated that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b). This application is hereby accorded Rule 1.47(b) status and the Office of Initial Patent Examination is authorized to

(1) accept this application under Rule 1.47(b);

(2) process the application with the inventors being Eric S. Wise, Roger J. Pellegrini, and John Rhinelander with the indication that the application was filed by J. P. Morgan Chase, Co. as the party in interest under 35 U.S.C. § 118, inventor authority code 08, using the Declaration filed on; and

(3) mail a filing receipt with a filing date of March 26, 2001

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this communication should be directed to the undersigned at 703-306-5593.

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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Paper No. 13

SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402

SEP 8 2003

In re Application of:
AHN *et al.*
Application No. 09/817,447
Filed: March 26, 2001
Attorney Docket No. 303.459US2

DECISION ON PETITION

This is a decision on the petition, filed on March 07, 2003, under 37 C.F.R. § 1.181, to withdraw the holding of abandonment of the above-identified application. No fee is required.

The petition is **GRANTED.**

A final Office action was mailed on May 06, 2002. A proposed response to the final Office action was filed on July 15, 2002. An advisory action was mailed on January 28, 2003. The application was held abandoned for failure to file a proper reply to the Office letter mailed on May 06, 2002. A Notice of Abandonment was mailed on February 25, 2003.

Petitioner asserts that in a communication with the examiner on August 12, 2002, agreement was reached that the finality of the previous office action would be withdrawn, the after final amendment filed July 15, 2002, would be entered and the examiner would issue a new Office action. Petitioner asserts that this agreement was again confirmed with the examiner on November 06, 2002.

A review of the written record reveals an Interview Summary form from the examiner, the contents of which corroborate the assertions made by Petitioner above. As such, the examiner improperly communicate to the applicant that a response or further action, on the part of the applicant, would not be necessary. In fact, the applicant was not properly informed that the examiner had changed positions until 3 months after the end of the maximum extendable shortened statutory period to respond to the final rejection had expired.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby

vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application will be forwarded to the examiner for issuance of new Office action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Re application of SCOTT TREES
Serial no.: 09/817,449
Filed: March 26, 2001
Title: Interspecific Lobelia Plant

September 26, 2002

This is a decision on Applicant's petition under 37 C.F.R. 1.84, filed Aungust 20, 2002, to approve color drawings. Applicant has complied with all the conditions set forth in 37 CFR 1.84(a)(2).

The petition is GRANTED.

Bruce Campell

Bruce Campell
Supervisory Patent Examiner
Technology Center 1600

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. Madison Street
Suite 3800
Chicago, IL 60661

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/11/2005

TO SPE OF : ART UNIT 1600 (1653)

SUBJECT : Request for Certificate of Correction on Patent No.: 6,794,492

BEST AVAILABLE COPY

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-922
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

*** Are the changes to the claim dependency okay?**

~~Thank You For Your Assistance~~

Ernest C. White, LIE305-8339
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☑ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

The changes to claims 9, 10, 18 and 19 are acceptable. However, the amendment to claim 14 should not be entered, since it introduces an error in the spelling of the word "peptide".

SPE

1653
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JAN 1 0 2002

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2100

Paper No. 3

Hector Franco
999-A LaMesa Terrace
Sunnyvale, California 94086

In re Application of: Hector Franco	)	
Application No. 09/817,535	)	DECISION ON PETITION TO
Filed: March 26, 2001	)	MAKE SPECIAL UNDER 37
For: CONSUMER PRODUCTS	)	C.F.R. §1.102(c) AND MPEP §
DISTRIBUTION SYSTEM	)	708.02 (IV): APPLICANT'S AGE

This is a decision on the petition, filed March 26, 2001, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, Section IV must include a showing, as by a birth certificate or the applicant's statement, that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a copy of a driver's license establishing that applicant, Hector Franco, is more than sixty five (65) years of age. Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for expedited prosecution.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD FL 33022-2480

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JUN 2 6 2008

OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of :
Karl DRAGANITSCH et al. :
Application No. 09/817,573 :
Filed: March 26, 2001 :
Attorney Docket No. **WRA 32830** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 13, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/872,457.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

#14

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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APR 14 2004

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:
Jane Osbourn et al	:
Serial No.: 09/817,661	: PETITION DECISION
Filed: March 26, 2001	:
Attorney Docket No.: 084633-000100	:

This is in response to the petition under 37 CFR 1.181, filed October 10, 2003, for withdrawal of abandonment of the above identified application based on filing of a timely reply. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on February 25, 2003, setting a one month shortened statutory period for reply. Upon failure to receive a reply, a Notice of Abandonment was mailed to applicants on September 23, 2003. Applicants state that they replied on June 25, 2003, including a request and fee for a three month extension of time and provide a copy of the response. The reply has not been located (however the fee was recorded on June 30, 2003, showing receipt of the reply) and the copy of the reply provided with the petition will be utilized In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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GREENBERG TRAURIG LLP (LA)
2450 COLORADO AVENUE, SUITE 400E
INTELLECTUAL PROPERTY DEPARTMENT
SANTA MONICA CA 90404

COPY MAILED

APR 1 0 2009

OFFICE OF PETITIONS

NOTICE

In re Patent No. 6,922,719 :
Issue Date: July 26, 2005 :
Application No. 09/817,718 :
Filed: March 26, 2001 :
Attorney Docket No. 090897.010400 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 10

Richard M. Moose
Dority & Manning,
Attorneys at Law, P.A.
P.O. Box 1449
Greenville SC 29602

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AUG 2 6 2002

OFFICE OF PETITIONS

In re Application of
Alexander, *et al.*
Application No. 09/817,779
Filed: March 26, 2001
For: TEMPORARY SIGN SYSTEM

DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(a)

This is in response to the December 7, 2001 petition under 37 C.F.R. §1.47(a).

Petition History

This application was filed on March 26, 2001. However, the application lacked a declaration signed by the inventor as required by 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68. Accordingly, the Office of Initial Patent Examination (hereinafter "OIPE") mailed a notice to file missing parts of nonprovisional application (hereinafter "notice") to the address of record on May 7, 2001. The notice requested a signed declaration, the basic filing fee, additional claims fees, and a new set of drawings. It set a two month period for replying.

Petitioner replied on June 26, 2001. However, while it addressed the fee deficiencies and the substitution of drawings, it did not include the required declaration.

Accordingly, the office mailed a notice of incomplete reply on July 18, 2001. It did not extend the period for replying.

Petitioner filed this response, a petition under 37 C.F.R. §1.47, on December 7, 2001. Since a request for the appropriate extension of time accompanied this petition, it was timely.

THE RULE

37 C.F.R. §1.47

> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(l) and the last known address of the nonsigning inventor. The Patent and Trademark Office shall, except in a continued prosecution application under §1.53(d), forward notice of the filing of the application to the nonsigning inventor at said address and publish notice of the filing of the application in the Official Gazette. The nonsigning inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

ANALYSIS

It is noted that while rule 47 is essentially a waiver of the requirement that the inventor sign the declaration, it does not relieve Petitioner of the obligation of submitting a valid declaration under 35 U.S.C. §25, 35 U.S.C. §115, 37 C.F.R. §1.63, and 37 C.F.R. §1.68.

A valid declaration must contain the citizenship of every inventor.[1] It also must state the mailing address of the inventors.[2] This declaration fails to do that for the nonsigning inventors.

Therefore, *this petition is* ***dismissed***.

Petitioner is given TWO MONTHS from the mailing date of this decision to respond, correcting the above-noted deficiency. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5593.

Scott M. Ledford
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] 35 U.S.C. 115, 37 C.F.R. 1.63.

[2] 37 C.F.R. 1.63

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

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FEB 07 2003

OFFICE OF PETITIONS

RICHARD M. MOOSE
DORITY & MANNING
ATTORNEYS AT LAW, P.A.
P.O. BOX 1449
GREENVILLE SC 29602

In re Application of
Luther Kenneth Alexander et al.
Application No. 09/817,779
Filed: March 26, 2001
Attorney Docket No. AAM-3

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the request for reconsideration, filed December 17, 2002 with a request for a two month extension of time.

The petition is GRANTED.

The above-identified application was filed on March 26, 2001. The application names as inventors Luther Kenneth Alexander, Lamar Merck and Ricky T. Holder. The declaration is signed by inventor Alexander only. The applicant files this petition alleging that joint inventors Lamar Merck and Ricky T. Holder refuse to execute the oath/declaration and thus seeks status under 37 CFR 1.47(a).

By declaration of Patricia Alexander, Administrative Assistant to joint inventor Alexander, the application papers were sent to both Mr. Merck and Mr. Holder and that both verbally refused in conversations with Ms. Alexander to execute the oath/declaration.

A grantable petition under 37 CFR § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

A petition under 37 CFR 1.47(a) was previously filed December 7, 2001 and dismissed in a decision dated August 26, 2002 as the oath/declaration filed with that petition was not in compliance with 35 U.S.C. §§ 25 and 115 and 37 CFR §§ 1.63 and 1.168.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR § 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination to be processed in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 14

LAMAR MERCK
P.O. BOX 305
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RICKY T. HOLDER
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SENECA, SC 29672

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FEB 07 2003

OFFICE OF PETITIONS

In re Application of
Luther Kenneth Alexander et al.
Application No. 09/817,779
Filed: March 26, 2001
For: TEMPORARY SIGN SYSTEM

Dear Mr. Merck and Mr. Holder:

You are named as a joint inventors in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (703) 305-4497. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
RICHARD M. MOOSE
DORITY & MANNING
ATTORNEYS AT LAW, P.A.
P.O. BOX 1449
GREENVILLE SC 29602

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

1/11/08

Patent No. :7148566
Inventor(s) : Knickerbocker et al.
Issued : 12/12/2006
Title : METHOD AND STRUCTURE FOR AN ORGANIC PACKAGE WITH IMPROVED BGA LIFE
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that item [74], is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

IBM Corporation, IP LAW DEPT. SCHB, BLDG. 040-3
1701 North Street
Endicott, NY 13760

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 8

Hovey, Williams, Timmons & Collins
Suite 400
2405 Grand Boulevard
Kansas City MO 64108

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SEP 13 2002

OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 09/817,869
Deposited: March 26, 2001
Attorney Docket No. 30509

DECISION ON PETITION

This is a decision on the "Petition to Correct the Alleged Omission of Items and Evidence of the Inclusion of the Allegedly Omitted Items in the Application as Filed" filed July 17, 2002. This petition is properly treated as a petition under 37 C.F.R. §1.53(e)(2). Petitioners request that the Office accord the above-identified application a filing date of March 26, 2001, with both sequence listings in computer readable format and figures 2-5 as a part of the original application disclosure.

Application papers in the above-identified application were filed on March 26, 2001. However, on June 12, 2002, the Initial Patent Examination Division mailed applicants a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures." Applicants were thereby notified that the application papers had been accorded a filing date; however, a copy of the "Sequence Listing" in computer readable form had not been submitted as required by 37 CFR 1.821(e) and Figures 2-5 described in the specification appeared to have been omitted. Applicants were given a TWO MONTH period from the mail date of the notice to reply to avoid abandonment, with extensions of time obtainable under 37 CFR 1.136(a).

In response, applicants timely filed the instant petition (and petition fee). Applicants assert that the items were, in fact, included with the application as filed and request that the items be officially noted as being included with the originally filed application. In support thereof, applicants submitted *inter alia* a copy of their return postcard from the USPTO. Petitioners also submitted copies of the sequence listings in computer readable format and of Figures 2-5 as originally filed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on March 26, 2001; 2) it specifically identifies the items being filed, including "Two (2) CD-Rom" and "Twenty-four (24) Formal Drawing Sheets" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 2 CD-Rom and 24 Sheets of Drawings, were filed on March 26, 2001.

The application papers already considered received in the Office on March 26, 2001, were reviewed along with the missing items submitted on petition. However, these papers together do not constitute the items described on the postcard receipt as 2 CD-Rom and 24 Sheets of Drawings. The postcard receipt evidences filing of the 2 CD-Roms. Thus, petitioner has shown that the 2 CD-Roms were among the items present in the application on the date of deposit and should be included in the original application disclosure. To this extent, the petition is granted.

However, as to the 24 sheets of Drawings, petitioners have submitted 3 sheets of drawings containing figures 2-5. These together with the drawings considered received in the Office on March 26, 2001 constitute 23 sheets of drawings as figures 4 and 5 are contained on the same drawing sheet. This evidence rebuts the presumption that the postcard receipt is *prima facie* evidence of receipt of 24 sheets of drawings in the Office on March 26, 2001. Petitioners other evidence is not persuasive that 24 sheets of drawings were filed on March 26, 2001. Neither a transmittal letter nor a certificate of mailing evidences receipt in the Office of any of the items identified thereon because neither is used for verification when received in the Office.

Moreover, the drawing sheet submitted on petition containing figure 3 does not appear to include a figure. Rather, above the label "Fig. 3" there is merely a short blurred line and an arrow.

Accordingly, the petition must be DISMISSED to the extent indicated. This petition is dismissed without prejudice to reconsideration upon the submission of persuasive evidence that 24 sheets of drawings were present in the application as filed on March 26, 2001, or an adequate explanation to allow for considering 23 sheets of drawings present in the application as filed on March 26, 2001. In addition, submission of another copy of Fig. 3 as originally filed is requested.

Any request for reconsideration must be filed within **TWO (2) MONTHS** from the mail date of this decision. This period for reply is not extendable under §1.136(a). See 37 CFR 1.181(f). Thereafter, the application file will be returned to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No. 11

Hovey, Williams, Timmons & Collins
Suite 400
2405 Grand Boulevard
Kansas City MO 64108

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OFFICE OF PETITIONS

In re Application of
Wang, et al.
Application No. 09/817,869
Deposited: March 26, 2001
Attorney Docket No. 30509

DECISION ON PETITION

This is a decision on the "Request for Reconsideration of Decision on Petition" filed by facsimile transmission on September 18, 2002, requesting that the Office accord the above-identified application a filing date of March 26, 2001, with both sequence listings in computer readable format and figures 2-5 as a part of the original application disclosure. The application file was recently forwarded to the Office for consideration of the petition.

Application papers in the above-identified application were filed on March 26, 2001. However, on June 12, 2002, the Initial Patent Examination Division mailed applicants a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures." Applicants were thereby notified that the application papers had been accorded a filing date; however, a copy of the "Sequence Listing" in computer readable form had not been submitted as required by 37 CFR 1.821(e) and Figures 2-5 described in the specification appeared to have been omitted.

In response, applicants timely filed the initial petition (and petition fee). By proper postcard evidence, petitioners showed that the items described on the postcard "2 CD-Rom[s] and 24 Sheets of Drawings" were filed on March 26, 2001. However, the drawing sheets submitted on petition along with those of record only constituted 23 sheets of drawings, as figures 4 and 5 were on the same drawing sheet. Accordingly, the petition was granted to the extent that petitioner had shown that the 2 CD-Roms were among the items present in the application on the date of deposit and should be included in the original application disclosure. However, the petition was dismissed without prejudice to reconsideration upon the submission of persuasive evidence that 24 sheets of drawings were present in the application as filed on March 26, 2001, or an adequate explanation to allow for considering 23 sheets of drawings present in the application as filed on March 26, 2001. In addition, submission of another copy of Fig. 3 as originally filed was requested.

In response, petitioner timely filed the instant renewed petition. On petition, petitioner adequately explained the discrepancy in the number of sheets of drawings submitted on petition. Specifically, petitioner attested to figures 4 and 5 being shrunk and resubmitted on petition on one sheet rather than

on two sheets as originally filed. In addition, petitioner explained that the copy of Fig. 3 submitted on petition did properly appear to be a blurred line because figure 3 is the best available, but poor copy, of a photograph.

In view thereof, the petition is now also **granted** to the extent that figures 2-5 are considered a part of the original application disclosure. (Submission of a new figure 3 is no longer required.)

The application file is being forwarded to the Office of Initial Patent Examination for:

- indication in Office records that figures 2-5 were present in the application on filing on March 26, 2001.

Thereafter, the application file should be returned to the Supervisory Patent Examiner in AU 1638 for consideration of the petition filed March 26, 2001, under 37 CFR 1.84(b) to accept photographs.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for D Mood

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Feng Guan
2600 Golf Road, #705
Glenview, IL 60025

MAIL

JUN 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of GUAN	:	
Application No.: 09/817,875	:	
Filing Date: March 26, 2001	:	PETITION UNDER 37 CFR 1.181
For: DYNAMIC INFORMATION	:	TO WITHDRAW HOLDING OF
SHARING BASED ON UNIQUE	:	ABANDONMENT
INDIVIDUAL ID	:	

This is a decision on the petition filed March 17, 2005 under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **DISMISSED**.

The application was abandoned for failure to file a timely response to the Office action mailed August 30, 2004. A Notice of Abandonment was mailed March 23, 2005.

MPEP 711.03(c), Section I states in relevant part:

> [A]n allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action.

For a *pro se* applicant, a petition to withdraw a holding of abandonment based on failure to receive an Office communication must include a statement by the applicant and by anyone else at the applicant's correspondence address who would have handled the Office communication. The statement must indicate the following: that the Office communication was never received, that a search of the application file or any other location where correspondence from the USPTO is kept failed to uncover the Office communication in question, and that applicant was in fact at the correspondence address of record at the time the Office communication in question would have been received. The statement must also provide an explanation of the mail handling procedures at applicant's correspondence address. Any available documentary evidence of mail received during a reasonable period after the mail date of the Office communication must be provided. If available, copies of records on which the receipt date of the Office communication would have been entered had it been received must be submitted. Also, a showing of any docket record or other method which would serve as a

reminder of a response due date should be provided along with an adequate explanation of such record and/or method.

The present petition states that the Office action mailed August 30, 2004 was never received and that a search of applicant's file failed to uncover the Office action. However, the statement does not expressly state that applicant was in fact at the correspondence address of record at the time the Office communication would have been received and does not provide any explanation of the mail handling procedures at the correspondence address of record.

Accordingly, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
571-272-3599

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 02-02

Paper No. 6

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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FEB 2 8 2002

OFFICE OF PETITIONS

In re Application of	:
Dideriksen, Feller, Harris, Novak,	:
and Olson	: DECISION REFUSING STATUS
Application No. 09/817,901	: UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001	:
Attorney Docket No. MS1-788US	:

This is in response to the petition filed under 37 CFR 1.47(a) on 29 November, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 26 March, 2001, without an executed oath or declaration.

Accordingly, on 29 May, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, the statutory basic filing fee, additional claim fee(s), a signed oath or declaration, and a surcharge for their late filing. A two (2) month period for reply was set.

In response, on 29 November, 2001, petitioners filed the present petition, accompanied by the petition fee, basic filing fee,

additional claim fee(s), the late filing surcharge, and a declaration naming Tedd Dideriksen, Chris Feller, Geoffrey Harris, Michael J. Novak, and Kipley J. Olson as joint inventors and signed by joint inventors Dideriksen, Harris, Novak and Olson on behalf of themselves and joint inventor Feller. The petition was also accompanied by a request and fee for a four (4) month extension of the time to reply to the Notice mailed on 29 May, 2001.

Petitioners state that inventor Feller was requested via email to sign the declaration, but has failed to do so.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (2). In regards to item (1), petitioners have not shown that Feller was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

In regards to item (2), the declaration is deficient in that it does not include the residence and mailing address and citizenship for joint inventor Feller. The oath or declaration

must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[1] The declaration supplied with the application papers also lacks the citizenship of joint inventor Feller.[2] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[3] Petitioners must submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67 with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] 37 CFR 1.63(c).

[2] MPEP 605.01.

[3] 35 U.S.C. § 115, MPEP 605.01.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 06-02

Paper No. 8

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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OFFICE OF PETITIONS

In re Application of	:
Dideriksen, Feller, Harris, Novak,	:
and Olson	: DECISION REFUSING STATUS
Application No. 09/817,901	: UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001	:
Attorney Docket No. MS1-788US	:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 25 March, 2002.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 26 March, 2001, without an executed oath or declaration.

Accordingly, on 29 May, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, the statutory basic filing fee, additional claim fee(s), a signed oath or declaration, and a surcharge for their late filing. A two (2) month period for reply was set. The petition filed on 29 November, 2001, was dismissed on 28 February, 2002.

Petitioners again assert that inventor Feller was requested via email to sign the declaration, but has failed to do so. The

petition is accompanied by an unexecuted declaration apparently naming Feller as the sole inventor.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (2). In regards to item (1), petitioners have not shown that Feller was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration). Petitioners **must** provide evidence that a copy of the application papers was actually sent or given to the non-signing inventor. Petitioners may show proof by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) was sent or given to the non-inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

In regards to item (2), the declaration submitted with the renewed petition is deficient in that it does not reflect the proper inventive entity. The declaration submitted with the renewed petition lists Feller as the sole inventor. Petitioners must provide a new oath or declaration in compliance with 37 CFR 1.63 and 1.67 including the citizenship, residence, and mailing address for each inventor. The oath or declaration must also be signed by each of the signing inventors on behalf of themselves and the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

DWood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 11

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OFFICE OF PETITIONS

In re Application of	:
Dideriksen, Feller, Harris, Novak,	:
and Olson	: DECISION GRANTING STATUS
Application No. 09/817,901	: UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001	:
Attorney Docket No. MS1-788US	:

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 6 November, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Chris Feller, has refused to join in the filing of the above-identified application after having been sent via E-mail a copy of the application papers. Specifically, the statement of petitioners' registered attorney, Lance R. Sadler, establishes that the a copy of the application papers were sent via E-mail to the inventor, who acknowledged receipt thereof. The inventor then sent an E-mail to counsel's employee, Jane Stafford, stating that he would not sign the application. The inventor has not signed and returned the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Although petitioners submitted a two (2) month extension of time with the present renewed petition, a three (3) month extension of time is necessary for a timely reply to the decision mailed 6 June, 2002. Therefore, counsel's deposit account, No. 12-0769, will be charged the additional $520.00 for a three (3) month extension of time.

It is noted that the declaration filed with the present petition lists a different order of inventors' names than did the declaration filed on 29 November, 2001. The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration.[1] Therefore, if petitioners desire that the order of names be other than as specified on the declaration filed with the application, a petition under 37 CFR 1.182 to change the order of inventors must be filed, accompanied by the requisite petition fee.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] MPEP 605.04(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 11-02

Chris Feller
15600 NE 8th Street
Suite B1-537
Bellvue, WA 98008

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of
Feller et al.
Application No. 09/817,901
Filed: 26 March, 2001
For: METHODS, SYSTEMS AND MEDIA PLAYERS FOR RENDERING DIFFERENT MEDIA TYPES

Dear Mr. Feller:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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JAN 08 2003

OFFICE OF PETITIONS

In re Application of	:
Dideriksen, Feller, Harris, and	:
Novak	: DECISION REFUSING STATUS
Application No. 09/817,902	: UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001	:
Attorney Docket No. MS1-786US	:

This is in response to the renewed petition under 37 CFR 1.47(a)[1] filed on 19 February, 2002. The Office apologizes for the delay in responding to the present petition.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 26 March, 2001, without an executed oath or declaration.

---

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Accordingly, on 29 May, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, the statutory basic filing fee, additional claim fee(s), a signed oath or declaration, and a surcharge for their late filing. A two (2) month period for reply was set.

In response, on 29 November, 2001, petitioners filed a petition under 37 CFR 1.47(a), accompanied by a declaration naming Tedd Dideriksen, Chris Feller, Geoffrey Harris, Michael J. Novak, and Kipley J. Olsen as joint inventors and signed by all joint inventors except joint inventor Feller. Petitioners asserted that joint inventor Feller refused to sign the declaration. The petition was dismissed on 7 January, 2002, because petitioners had not provided sufficient proof that a complete copy of the application had been provided to joint inventor Feller.

In response, on 19 January, 2002, the present renewed petition was filed. Although petitioners have now shown that a copy of the application was provided to joint inventor Feller, it has been noted, upon further review, that the oath or declaration filed on 29 November, 2001, is defective in that it lacks the citizenship, mailing address, and residence of joint inventor Feller.

The oath or declaration must identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.[2] The declaration supplied with the application papers also lacks the citizenship of joint inventor Feller.[3] A statement of the inventor's citizenship is a statutory requirement and cannot be waived.[4] Petitioners must submit a new oath or declaration in compliance with 37 CFR 1.63 and 1.67, signed by all of the signing inventors on behalf of themselves and the non-signing inventor, with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

---

[2] 37 CFR 1.63(c).

[3] MPEP 605.01.

[4] 35 U.S.C. § 115, MPEP 605.01.

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DIW 03-03

Paper No. 9

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED

MAR 17 2003

OFFICE OF PETITIONS

In re Application of	:
Dideriksen, Feller, Harris, and	:
Novak	: DECISION ACCORDING STATUS
Application No. 09/817,902	: UNDER 37 CFR 1.47(a)
Filed: 26 March, 2001	:
Attorney Docket No. MS1-786US	:

This is in response to the twice renewed petition under 37 CFR 1.47(a)[1] filed on 7 March, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Chris Feller, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers via E-mail. The non-signing inventor subsequently responded by E-mail stating his refusal to sign.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

---

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The $130.00 fee filed with the present request for reconsideration is unnecessary and will be credited to counsel's deposit account, No. 12-0769.

The application is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONATHAN M. WALDMAN
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

COPY MAILED
MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
BEDINGFIELD, JAMES C.	:	
Application No. 09/817,944	:	DECISION ON PETITION
Filed: March 27, 2001	:	TO WITHDRAW
Attorney Docket No. BELL-0096/00414	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that all powers of attorney filed in this case have been revoked by the assignee of the patent application on April 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

While the instant petition is moot, it is noted that the request to withdraw is for all attorneys associated with customer number 38952. Petitioner is reminded that any request for withdrawal as attorney or agent *by customer number* cannot be granted unless the power of attorney of record in the application is to all the practitioners associated with the customer number. The previously filed power of attorney was not appointed by customer number practice.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Amelia Au at 571-272-7414.

Amelia Au
Petitions Examiner
Office of Petitions

cc: POTOMAC PATENT GROUP, PLLC
P.O. BOX 270
FREDERICKSBURG VA 22404

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
WWW.USPTO.GO

JJGJr: 02-03

Paper No: 9

BLYNN L. SHIDELER
WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219-1818

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FEB 2 8 2003

OFFICE OF PETITIONS

In re Application of:	:	
Ravo	:	ON PETITION
Filed: 27 March, 2001	:	
Application No. 09/817,956	:	
Docket No.2931-010557	:	

This is a decision on the petition filed herein on 11 February, 2003, under 37 C.F.R. §1.137(a)[1] and §1.137(b)[2] to revive the above-identified application.[3]

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[1] A Petition filed under the provisions of 37 C.F.R. §1.137(a) must be accompanied by:
(1) The required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application for patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee required by 37 C.F.R. §1.17(l);
(3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the reply due date until the filing of a grantable petition pursuant to the is paragraph was unavoidable; and
(4) Any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c).

An application is "unavoidably" abandoned only where Petitioner (or Petitioner's counsel) takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the response is not timely received in the Office. That is, in the context of ordinary human affairs the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[2] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:
(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.
(2) the petition fee as set forth in 37 C.F.R. §1.17(m);
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

[3] Petitioner cited 37 C.F.R. §1.137(a) as the authority for the instant petition, but authorized fees for a petition under 37 C.F.R. §1.137(b). It is for that reason that the matter is considered under both alternatives.

The petition under:

- 37 C.F.R. §1.137(b) is **GRANTED**; and
- The petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

BACKGROUND

The record indicates that:

- applicant failed to file a timely and proper response to the non-final Office action mailed on 22 February, 2002, with a reply due (absent extension of time) on or before 2 May, 2002;
- the application became abandoned after midnight 2 May, 2002;
- Notice of Abandonment was not mailed before the instant petition was filed;
- contemporaneously with the filing of the instant petition(s), Petitioner filed a reply (Amendment) and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing

---

[4] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8]

(Moreover, it long has been the position of the Office that the use of the filing periods (such as in 37 C.F.R. §1.137(b)) as an "extension of time" is an "abuse" of the procedures for reviving abandoned applications, and is contrary to the meaning and intent of the regulation.[9] The Office has indicated that petitions to revive must be filed promptly after the applicant becomes aware of the abandonment.[10] Such does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[11]))

Allegation of Unavoidable Delay

Petitioner submits as his showing for the petition alleging unavoidable delay the declaration of the Applicant that mail from his Counsel was not received at his mailing address of Rome American Hospital.

Petitioner's failure to satisfy the "showing" requirement under the regulation precludes revival of the instant application as having gone abandoned due to unavoidable delay.

As to Unintentional Delay

Petitioner has authorized the fee, made the statement of unintentional delay, and submitted the required reply.

CONCLUSION

Accordingly, the petition to:

---

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] See: In re Application of S, 8 USPQ2d 1630, 1632 (Comm'r Pats. 1988). Where there is a question whether the delay was unintentional, the petitioner must meet a burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. §1.137(b). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[10] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[11] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

- revive under 37 C.F.R. §1.137(b) hereby is **granted**; and
- revive under 37 C.F.R. §1.137(a) must be and hereby is **dismissed**.

The instant application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 3/10/10

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/817963 Patent No.: 7476422 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

1795

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/10/10 Paper No.: —

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/917963 Patent No.: 7476492 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Talbot
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Brian K Talbot/ 1715

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ALEXANDRIA, VA 22313-1450
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AUG 18 2004

Paper No. x

In re Application of
Michael E. Zoeckler
Application No. 09/818,023
Filed: March 27, 2001
Attorney Docket No. 7137 CIP1

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 1, 2004 by which petitioner requests that the time for filing a reply brief in response to the examiner's answer dated December 1, 2003 be restarted. No fee is required for the petition.

The petition is dismissed.

It appears from the record that a change of correspondence address was filed in this application on February 26, 2004, one day after receipt of a copy of the examiner's answer that was facsimile transmitted to counsel by the examiner. While it is appreciated that late receipt of Office correspondence can provide a basis for restarting the period to reply to that correspondence, as for example in the situations discussed at MPEP § 710.06, a part of the showing that is necessary to have the reply period restarted includes is that petitioner provide evidence establishing late receipt of mailed Office correspondence **at the correspondence address of record**. Petitioner has not demonstrated that fact, and based upon the current record, it appears that the correspondence address of record had changed prior to the mailing of the examiner's answer, but that petitioner never notified the Office of that fact. MPEP § 601.03 states:

> "Where an attorney or agent of record ... changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP code)."

As far as can be determined from the record, the failure to receive the examiner's answer in a time frame that would have permitted petitioner to file a reply brief within the time set by 37 CFR 1.193(b)(1) for doing so appears to have been caused by a failure to provide a current correspondence address. There is, therefore, no basis upon which to restart the time for filing a reply brief. Accordingly, the petition cannot be granted.

The application is being brought to the attention of the Supervisory Patent Examiner in Art Unit 3721, who should have an indication placed in the record that the reply brief filed on March 16, 2004 will not be entered or considered because it was not timely filed. The application should thereafter be forwarded to the Board of Patent Appeals and Interferences.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Keats A. Quinalty
WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

MAILED AUG 10 2006

In re Application of: ZOECKLER
Appl. No.: 09/818023
Filed: March 27, 2001
For: PAPERBOARD CARTONS WITH LAMINATED REINFORCING RIBBONS AND TRANSITIONED SCORES AND METHOD OF MAKING SAME

: DECISION ON PETITION

This is a decision on the petition filed on March 31, 2005 by which petitioner requests reconsideration of the examiner's refusal to enter a "supplement to the appeal brief". The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner filed a notice of appeal and subsequently filed an appeal brief on November 3, 2003. An examiner's answer was entered into the record on December 1, 2003. A "reply brief" was received by the office on March 16, 2004 and denied entry as being untimely in the Decision on Petition of August 18, 2004. A "supplement to the appeal brief" was received on September 24, 2004. This supplement was denied entry *without explanation* in the Office letter mailed March 22, 2005. Petitioner timely filed a request for reconsideration on March 31, 2005 and the application stands remanded to the examiner by the Board for a determination of the results of the request for reconsideration.

The paper in question contains no new arguments or positions that would require consideration by the examiner. The paper merely updates the real party-in-interest and summary of related appeals sections of the prior Brief. Petitioner opines the "supplement to the appeal brief" must be entered as it "merely apprises the Board of Appeals of the current assignee of the present application and updates the status of related appeals and interferences, both of which are required under new Part 41 of the Rules of practice". Therefore petitioner submits the supplement must be entered.

In looking to new Party 41 of the Rules of practice, the applicable rule referred to by petitioner is 37 CFR 41.8(a)(1) and (2) which states in part:

37 CFR 41.8. **Mandatory notices.**
(a) In an appeal brief (§ § 41.37, 41.67, or 41.68) or at the initiation of a contested case (§41.101), and within 20 days of any change during the proceeding, a party must identify:
(1) Its real party-in-interest, and
(2) Each judicial or administrative proceeding that could affect, or be affected by, the Board proceeding.

As the knowledge of the real party-in-interest allows the Board to avoid the appearance of any conflict of interest in assigning workload, and awareness of related cases facilitates scheduling and panel assignment which increases efficiencies as well as affords access to related decisions which may have bearing upon the appeal, appellants have a duty to make such mandatory notices in their appealed applications. The examiner is without authority to deny entry of mandatory notices under this rule. While identification of the notice as being a mandatory notice filed under 37 CFR 41.8 may have avoided confusion and delay, the "Supplement to Appeal Brief" is not a "Supplemental Appeal Brief" as purported by the examiner and entry is allowed.

In the Remand, the Board asks the examiner for a final determination of the status of both the "reply brief" and the "supplement to appeal brief". This application is being returned to the examiner of record for issuance of a formal indication that the "supplement to appeal brief" or mandatory notice filed on September 24, 2004 is entered to the record, while the "reply brief" of March 16, 2004 remains un-entered per the Decision of August 18, 2004. The application will then be returned to the Board for consideration of the appeal.

Any questions regarding this petition decision should be directed to Jessica Harrison, Technology Center 3700 Special Programs Examiner at 571-272-4449.

PETITION GRANTED

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Sheridan Ross PC
1560 Broadway Ste 1200
Denver, CO 80202

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Steve Reynolds et al.	:	
Application No. 09/818,052	:	DECISION ON PETITION
Filed: March 27, 2001	:	TO WITHDRAW
Attorney Docket No. INTC-001/01US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 28, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Sheridan Ross PC has been revoked by the assignee of the patent application on March 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McCarthy & Associates**
Suite 609
500 West Main Street
Oklahoma City, OK 73102

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OPTV/MOFO
C/O Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
McClean, VA 22102

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JUN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Steve Reynolds et al.	:	
Application No. 09/818,052	:	DECISION ON PETITION
Filed: March 27, 2001	:	TO WITHDRAW
Attorney Docket No. INTC-001/01US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Adam Keser on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Steve Reynolds**
812 Altair Drive
Littleon, CO 80124

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/818,052	03/27/2001	Steve Reynolds	INTC-001/01US

CONFIRMATION NO. 9179

OC000000024000429

43997
OPTV/MOFO
C/O MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Date Mailed: 05/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/28/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Lori S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

ITW

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C/O Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
McClean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Steve Reynolds et al.	:	
Application No. 09/818,052	:	DECISION ON PETITION
Filed: March 27, 2001	:	TO WITHDRAW
Attorney Docket No. INTC-001/01US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Adam Keser on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed April 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Steve Reynolds**
812 Altair Drive
Littleon, CO 80124

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

MAILED

JUN 0 2 2003

Technology Center 2100

Paper No. 4

OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of: W. Dale Hopkins, et al.	)	
Application No. 09/818,074	)	
Filed: March 26, 2001	)	**DECISION ON REQUEST FOR**
For: MULTIPLE CRYPTOGRAPHIC KEY	)	**WITHDRAWAL AS ATTORNEY**
PRECOMPUTE AND STORE	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400
Attn: Bill Streeter

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 3

WAGNER, MURABITO & HAO LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

MAIL

AUG 0 9 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Shawn R. Gettemy, et al.
Application No. 09/818,081
Filed: March 26, 2001
For: CONTROLLABLE PIXEL BORDER FOR A NEGATIVE MODE PASSIVE MATRIX DISPLAY DEVICE

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition under MPEP § 708.02, filed June 17, 2002, to make the above-identified application special.

A grantable petition to make special in accordance with M.P.E.P. § 708.02, Item VIII, must be accompanied by (a) the fee set forth in 37 C.F.R. § 1.17(I), (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, professional searcher, etc., and a listing of the field of search by class and subclass, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter is distinguishable over these references.

For the above stated reasons, the petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application file will be forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 14

Derek J. Westberg
Law Offices of Derek J. Westberg
Two North Second St., Suite 1390
San Jose, CA 95113

JUL 25 [illegible]

In re Application of
Charles Guthrie et al.
Application No.: 09/818,092
Filing Date: March 26, 2001
Attorney Docket No.: 2102330-991110

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on the petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181(a) filed on June 10, 2003. There is no fee for this petition.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the Office action mailed on June 17, 2002. A Notice of Abandonment was mailed on April 22, 2003.

Petitioner asserts that a response to the Office action of June 17, 2002 was timely submitted to the United States Patent and Trademark Office (USPTO). To support this assertion, petitioner has submitted a copy of the response (an amendment, a petition for a three-month extension of time, new formal drawings, an information disclosure statement (IDS), a revocation of power of attorney, and a new power of attorney) and a copy of a stamped return postcard which properly identifies and acknowledges receipt of the response by the USPTO on December 17, 2002.

A review of the application file record reveals that the above-identified response having been acknowledged as being received in the USPTO on December 17, 2002 is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "(a) postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima* [illegible]

[illegible]
on December 17, 2002. Accordingly, it is concluded that the response was timely [illegible] lost after receipt thereof.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed April 22, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on June 10, 2003 is accepted since the response originally submitted was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for entry of the response. The application file will then be forwarded to the examiner for appropriate action in due course.

Edward Westin

Edward P. Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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ALEXANDRIA, VA 22313-1450
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LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO CA 92130

COPY MAILED
AUG 0 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Guthrie et al.	:	
Application No. 09/818,092	:	DECISION ON PETITION
Filed: 26 March, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 27376-3	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 2 May, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed applications, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due

course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2817 for appropriate action on the amendment submitted on 2 May, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional applications listed in the concurrently-filed amendment.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/818,092	03/26/2001	2817	1968	27376-3	4	29	4

CONFIRMATION NO. 2840

CORRECTED FILING RECEIPT

OC000000019885013

35023
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

Date Mailed: 08/03/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Charles Guthrie, San Jose, CA;
Edmund Sandberg, Monte Sereno, CA;
Donald Wilson, San Jose, CA;
Gregory Prior, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **35023**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/192,731 03/27/2000
and claims benefit of 60/224,059 08/09/2000
and claims benefit of 60/224,298 08/10/2000
and claims benefit of 60/224,290 08/10/2000
and claims benefit of 60/224,291 08/10/2000
and claims benefit of 60/224,257 08/10/2000
and claims benefit of 60/224,289 08/10/2000
and claims benefit of 60/224,866 08/11/2000
and claims benefit of 60/234,415 09/21/2000
and claims benefit of 60/224,061 08/09/2000
and claims benefit of 60/224,060 08/09/2000
and claims benefit of 60/224,503 08/10/2000
and claims benefit of 60/224,961 08/11/2000
and claims benefit of 60/224,617 08/11/2000
and claims benefit of 60/246,662 11/07/2000
and claims benefit of 60/253,261 11/27/2000
and claims benefit of 60/254,727 12/11/2000
and claims benefit of 60/270,857 02/21/2001
and claims benefit of 60/262,537 01/17/2001
and claims benefit of 60/262,536 01/17/2001
and claims benefit of 60/241,198 10/17/2000
and claims benefit of 60/262,538 01/17/2001
and claims benefit of 60/265,945 02/01/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/30/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/818,092

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

High intensity light source

Preliminary Class

315

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for

issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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In re Patent No. 6527340
Issue Date: March 4,2003
Application No. 09818114
Filed: March 27,2001
Attorney Docket No. 20261.13

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed October 10,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 10,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6527340	2003-03-04	09818114	2001-03-27	1031.13

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/makammer34197/	Date (YYYY-MM-DD)	2007-10-10
Name	Mark A. Kammer	Registration Number	34197

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper No. 8

WILLIAMS, MORGAN & AMERSON, P.C.
10333 Richmond Drive, Suite 1100
Houston, TX 77042

FEB 24 2004

In re Application of:
CHUNG *et al.*
Serial No.: 09/818,193
Filed: March 26, 2001
Attorney Docket No.: **2026.000900/VU0037**

DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on the petition filed July 14, 2003, to withdraw the holding of abandonment in the above-identified application under 37 C.F.R. § 1.181. No fee is required.

The petition is **GRANTED.**

The application was held abandoned for failure to timely file a response to the Office action mailed on October 01, 2002. A Notice of Abandonment was mailed on June 17, 2003.

Petitioner asserts that the Office action mailed on October 01, 2002, was not received. To support this assertion, petitioner provided a statement attesting that a search of the file jacket and docket records showed that the Office action was not received. A copy of the file docket where the Office action would have been entered was also included with the petition. It is further asserted that a Change of Address (COA) was filed prior to the mailing of the Office action. A copy of the COA, and the date stamped return postcard receipt were included with the petition.

A review of the written record indicates that the COA was received in the United States Patent and Trademark Office on September 24, 2001, but not processed in the application file until October 28, 2002. As a result, the Office action mailed on October 01, 2002, was sent to an incorrect address. It is noted that the application serial number listed on the COA is for a different application. This may have contributed to the delay in processing.

For the above stated reason, the petition is **granted**. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the Technology Center 2800 support staff for re-mailing the Office action. The shortened statutory period for response set therein will be reset to

run from the date the Office action is re-mailed. Extensions of time are available under 37 C.F.R. § 1.136.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

PTO/SB/66 (03-09)
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6725518	2004-04-27	09818196	2001-03-26	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/ Gary J. Reed/	Date (YYYY-MM-DD)	2010-02-12
Name	Gary J. Reed		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6725518
Issue Date: April 27,2004
Application No. 09818196
Filed: March 26,2001
Attorney Docket No. 30251-PA

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Eric J. Kron
Icoria, Inc.
108 T.W. Alexander Drive, Building 1A
Post Office Box 14528
Research Triangle Park, NC 27709

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Barrett et al. :
Application No. 09/818,205 :
Filed: March 27, 2001 :
Attorney Docket No. 2032US :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2005, to revive the above-identified application.

This application became abandoned for failure to reply timely to the Office communication mailed April 20, 2005, which set a one-month extendable period to reply. Accordingly, this application became abandoned on May 21, 2005. A Notice of Abandonment was mailed on November 21, 2005.

The Office notes that 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" be submitted. The statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

The petition is **granted.**

With the present petition, the assignee, Monsanto Company, submitted a revocation and appointment of power of attorney and a change of correspondence address. The Office notes: "Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a registered attorney or agent of record, (B) an assignee as provided for under 37 CFR 3.73(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71." MPEP 601.03. Pursuant to 37 CFR 3.73(b)(1): In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. To establish ownership, the assignee must submit to the USPTO a signed statement identifying the assignee by either:

> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may

be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Upon reviewing the documents submitted on petition, the assignee did not submit a copy of an executed assignment evidencing the chain of title from the original owner to the assignee. The assignee did not submit any documentary evidence of the chain of title from the inventors to Paradigm Genetics, Inc. to Icoria, Inc. to Monsanto Company. Moreover, the assignee did not submit a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number). For these reasons, the Office will not revoke the current power of attorney or change the correspondence address of record until the assignee submits a completed "Statement Under 37 CFR 3.73(b)" (Form PTO/SB/96). The appropriate form accompanies this decision for the assignee's convenience. Accordingly, as a one- time courtesy, a copy of the decision will be mailed to the address on the petition.

The matter is being referred to Technology Center Art Unit 1631.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: Howrey LLP
1111 Louisiana, 25th Floor
Houston, TX 77002-5242

Enclosures: "Statement Under 37 CFR 3.73(b)" (Form PTO/SB/96) and Privacy Act Statement

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QWEST COMMUNICATIONS INTERNATIONAL INC
LAW DEPT INTELLECTUAL PROPERTY GROUP
1801 CALIFORNIA STREET, SUITE 3800
DENVER CO 80202

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Case, et al. :
Application No. 09/818,207 : DECISION ON PETITION
Filed: March 27, 2001 :
Attorney Docket No. 1812 (USW 0618 PUS) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 17, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed April 16, 2008. Accordingly, the date of abandonment of this application is August 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of payment of the issue and publication fee, (2) the required petition fee; and (3) an adequate proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Publishing Division for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: JEREMY CURCURI
Brooks Kushman, PC
1000 Town Center, 22nd Floor
Southfield, MI 48075

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Mailed: 5/16/05

caf
Paper Number _____

In re application of
Walter Weissman et al.
Serial No. 09/818,210
Filed: March 27, 2001
For: TUNING FUEL COMPOSITION FOR DRIVING CYCLE CONDITIONS IN SPARK IGNITION ENGINES

DECISION ON PETITION

This is a response to the PETITION UNDER 37 C.F.R. §1.181 TO WITHDRAW HOLDING OF ABANDONMENT filed December 01, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of October 28, 2004, for failure to timely file a proper reply to the Office letter of June 03, 2003, be withdrawn since the applicants did timely file a response thereto on August 01, 2003 by facsimile transmission to the USPTO. (A copy of the papers filed August 01, 2003 and a copy of the Facsimile Transmission Report indicating receipt of the facsimile transmission at the USPTO is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 (no fee) - no abandonment-in-fact. A review of the evidence presented reveals that applicant's response was properly filed on August 01, 2003 by facsimile transmission as evidenced by the properly completed Certification of Facsimile Transmission attached to applicant's response and by the copy of the Facsimile Transmission report provided with the instant petition which indicates the successful transmission, to a USPTO facsimile telephone number (703-872-9310), of 9 pages. Therefore, the application was never in-fact abandoned and any holding of abandonment for failure to timely file a proper response to the Office letter mailed on June 03, 2003 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for processing and consideration of the papers originally filed August 01, 2003 by facsimile transmission and a copy of which is provided as an attachment to the instant petition.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

ExxonMobil Research and Engineering Company
P.O. Box 900
1545 Route 22 East
Annandale, New Jersey 08801-0900

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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Paper No. 6

HUGHES ELECTRONICS CORPORATION
PATENT DOCKET ADMINISTRATION
BLDG 001 M/S A109
P O BOX 956
EL SEGUNDO CA 90245-0956

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JUL 2 9 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Taber B. Noble :
Application No. 09/818,230 :
Filed: March 27, 2001 :
Attorney Docket No. PD-200288 :

This is a decision on the petition, filed by facsimile transmission on April 8, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on November 26, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of November 7, 2002 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2611 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRAMCISCO, CA 94111-3834

MAIL

NOV 12 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Stacey, et al.

Application No. 09/818,252
Filed: March 26, 2001
For: A SYSTEM AND METHOD FOR SYNCHRONIZING SAMPLE RATES OF VOICEBAND CHANNELS AND A DSL INTERFACE CHANNEL

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent filed on September 27, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys/agents associated with Customer Number 20350 are withdrawn.

All future communications from the Office will to be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

CC : Kris V. Kalidindi, Esq.
Potomac Patent group, PLLC
2010 Corporate Ridge, Suite 700
Mclean, VA 22102

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Paper No. 6

Mark E. Ogram
7454 S. Kolb Rd., Suite 203
Tucson, AZ 85710

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APR 1 0 2002

OFFICE OF PETITIONS

In re Application of :
Ogram :
Application No. 09/818,262 :
Filed: March 26, 2001 :
Attorney Docket No. 1414S :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 12, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 3, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 4, 2001.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,
(2) the petition fee, and
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The instant petition lacks items (1) and (2).

As to (1), the amount of the filing fee due is determined at the time the filing fee is paid in full. On October 1, 2001, the filing fee was increased to $370 for a small entity. Petitioner only paid $355. Therefore, petitioner still owes $15 for the filing fee.

As to (3), petitioner should state word for word or very similarly, "The entire delay in filing the required reply from the due date for the reply until the filing of the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA 22202

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Mark E. Ogram
780 S. Freeman Rd.
Tuscon, AZ 85748

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OFFICE OF PETITIONS

In re Application of Ogram :
Application No. 09/818,262 :
Filing Date: March 26, 2001 :
Attorney Docket No. 1414S :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A Notice to File Missing Parts was mailed on May 7, 2001 to the address of record:

Mark E. Ogram
8040 S. Kolb Road
Tucson, AZ 85706

The Notice to File Missing Parts required the submission of specified fees along with corrected drawings.

A reply to the Notice of Missing Parts was not filed and the application became abandoned as of midnight on July 7, 2001.

A petition under 37 CFR 1.137(b) was filed on March 1, 2002. The petition was accompanied by a copy of the Notice to File Missing Parts, a claim to Small Entity status, payment of fees, and corrected drawings.

The petition was dismissed due to a fee deficiency. Petitioner submitted the fee amounts listed on the Notice of Missing Parts. However, the amount due for a fee is determined at the time the fee is paid in full, not the time the Notice is mailed. On October 1, 2001, the filing fee had been increased to $370 for a small entity. Petitioner had paid only $355. The decision stated an additional $15 should be submitted.

The decision also requested petitioner explicitly make a statement very similar to the following statement, "The entire delay in filing the required reply from the due for the reply until the filing of the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

The petition stated all future correspondence should be sent to:

Mark Ogram
7454 S. Kolb Road, Suite 203
Tucson, AZ 85710

The Office changed Office records to show the address immediately above as the address of record.

At this point, the Office notes the paper claiming small entity status listed an address of 780 S. Freeman Rd., Tucson, AZ 85748. However, the paper did not request all future correspondence be sent to that address.

The decision was mailed to the address of record - 7454 S. Kolb Rd. The decision was returned as undeliverable by the Post Office. The Post Office stated that no such number/street existed. A Notice of Abandonment was mailed on November 19, 2002. The decision was returned as undeliverable by the Post Office. The Post Office stated that no such number/street existed.

A request to change the address to 780 S. Freeman Rd., Tucson, AZ 85748 was filed on April 18, 2003.

Discussion:

The new petition seems to imply the Notice to File Missing Parts was never received. However, the first petition included a copy of the Notice to File Missing Parts. At this point in time, the Office will assume petitioner only intended to convey the decision on petition and Notice of Abandonment were never received.

As a matter of statutory law, the Office must require petitioner to submit the amount of the filing fee due at the time the filing fee is paid in full. Therefore, the Office and petitioner need not determine the exact reasons the papers were not properly delivered since the result will not affect the step petitioner needs to take to revive the application.

The current filing fee due for the application is $395. Petitioner has submitted $355. Petitioner should simply file a request for reconsideration along with $40 to complete the requirements to revive the application under 37 CFR 1.137(b).

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By facsimile: (571) 273-8300
Attn: Office of Petitions

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Mark E. Ogram
780 S. Freeman Rd.
Tuscon, AZ 85748

In re Application of Ogram :
Application No. 09/818,262 : Decision on Petition
Filing Date: March 26, 2001 :
Attorney Docket No. 1414S :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 12, 2006, to revive the above-identified application.

The petition is **granted**.

A Notice to File Missing Parts was mailed on May 7, 2001 to the address of record.

The Notice to File Missing Parts required the submission of specified fees along with corrected drawings.

A reply to the Notice of Missing Parts was not filed and the application became abandoned as of midnight on July 7, 2001.

A Notice of Abandonment was mailed on November 18, 2002.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b), including the submission of a total of $395 for the filing fee. Therefore, the petition is granted and the application is revived.

The file will be forwarded to the Office of Initial Examination to prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No. 12

Joseph W. Price
SNELL & WILMER LLP
1920 Main Street, Suite 1200
Irvine, CA 92614

MAR 26 2004

In re Application of:
YURI *et al.*
Serial No.: 09/818,346
Filed: March 27, 2001
Attorney Docket No.: **72478-1800**

SUA SPONTE
DECISION WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for failure to timely file a response to the Office action mailed on May 23, 2003. A Notice of Abandonment was mailed on December 17, 2003.

A review of the written record indicates that a proper response to the Office action, a Change of Address and request for a three (3) month extension of time, was previously filed on October 27, 2003, but not matched with the application prior to the mailing of the Notice of Abandonment. Since the response was timely filed, the abandonment of the application was premature. Therefore, the application was not abandoned in fact.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for consideration of the response.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Okano et al. :
Application No. 09/818,351 :
Filed: March 27 2001 :
Title: Cable Modem System :

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 19, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fee(s), as required by the Notice of Allowance and Fee (s) Due which was mailed August 21, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 22, 2006. A Notice of Abandonment was mailed on December 20, 2006.

Petitioner contends the Notice of Allowance and Fee (s) Due mailed on August 21, 2006 was not received. Petitioner states a search of the file jacket and docket records confirms the Notice of Allowance was not received. In support of petitioner's contention, a copy of the docket records has been provided.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn

This application is being forwarded to Art Unit 2623 for re-mailing of the Notice of Allowance and the Notice of Allowability to the correspondence address of record. The three month non-extendable time period for reply will be set to run from the mailing date of the new Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MAIL

MAY 2 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DANIELS DANIELS & VERDONIK, P.A.
SUITE 200 GENERATION PLAZA
1822 N.C. HIGHWAY 54 EAST
DURHAM, NC 27713

In re application of:
Terry
Application No. 09/818,378
Filed: March 27, 2001
For: ARCHITECTURE AND METHOD FOR AUTOMATIC DISTRIBUTED GAIN CONTROL FOR MODEM COMMUNICATIONS OVER PASSIVE MULTIPOINT NETWORKS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent and change of address filed on May 2, 2005.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 26108 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-1986

cc: John L. Doughty
ARRIS International, INC.
3871 Lakefield Drive
Suwanee, Georgia 30024

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Paper No. 07022006

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JUN 13 2006

Director's Office
Group 3700

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

In re Application of :
Ruth D. Kreichauf :
Appl. No. 09/818,383 :
Filed: March 27, 2001 :
For: MEANS OF PROVIDING
SAFE HAVEN WITHIN BUILDINGS DURING
CHEMICAL OR BIOLIOGICAL ATTACK

DECISION ON PETITION UNDER 37 CFR I.181

This is a decision on Applicant's Petition under 37CFR 1.181 filed on February 07, 2006 to withdraw the finality of the Office Action mailed December 07, 2005. No fee is required for the petition.

The petition is granted.

Applicant filed an RCE October 14, 2005 with claims 26 – 38. Of these claims, only 37 and 38 were new and the remaining claims were the same as in the parent application examined and finally rejected in an Office Action mailed July 14, 2005. In finally rejecting the claims in the first Office Action of the RCE, the Examiner applied the same grounds of rejection against claims 26 – 36 as applied in the final rejection of the Office Action mailed July 14, 2005 in the parent application but additionally applied a new ground of rejection applied against unamended claims 26 – 36 by applying an additional reference (Holmes). Applicant petitions for withdraw of the finality of the Office Action in the RCE.

Petitioner cites MPEP 706.07(b) for the propriety of when to and when not to make a first action final rejection. A review of the prosecution history indicates that the Examiner additionally applied a newly cited reference (Holmes) against non-amended claims 26 – 36 in violation of MPEP 706.07(b). Petitioner alleges, in essence, that the new ground of rejection in the RCE involving Holmes was not necessitated by applicant's amendment with respect to claims 26 – 36. The record fais to show any error in petitioner's position.

Accordingly, the finality of the rejection set forth in the Office Action mailed December 07, 2005 is hereby withdrawn. The amendment filed February 07, 2006 will be considered as an amendment filed pursuant to 37 CFR 1.111 and will be entered as a matter of right barring any compliance violation under 37 CFR 1.121 for entry. The Supervisory Legal Instruments Examiner will be notified that the status of the amendment filed February 07, 2006 requires correction from "Amendment After Final" to - - Amendment – After Non-Final Rejection - - and the Supervisory Patent Examiner will be notified that the amendment requires a response in the form of a complete Office Action.

PETITION GRANTED.

Any questions regarding this decision should be directed to Special Program Examiner Allan N. Shoap at 571-272-4514.

Karen M. Young

Karen M. Young
Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper 6

Hickman Palermo Truong & Becker
1600 Willow Street
San Jose CA 95125-5106

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AUG 2 7 2002

OFFICE OF PETITIONS

In re Application of
Ashar Aziz
Application No. 09/818,424
Filed: March 26, 2001
Attorney Docket No. 55218-0504

DECISION DISMISSING PETITION
UNDER 37 CFR 1.182

This is a decision on the petition under 37 CFR 1.182 filed October 5, 2001, requesting acceptance of an unintentionally delayed notice of the filing of a corresponding PCT application under 35 USC 122(b)(2)(B)(iii).

The petition is dismissed for the reasons stated below.

Any request for reconsideration of this decision must be filed within TWO (2) MONTHS from the mail date of this decision. **See** 37 CFR 1.181(f). Extensions of time under 37 CFR 1.136(a) are **not** permitted.

A petition under 37 CFR 1.182 is directed to those situations not specifically provided for in the regulations. Since acceptance of an unintentionally delayed notice of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications 18 months after filing under 35 USC 122 (b)(2)(B)(iii) is provided for, it at all, in 37 CFR 1.137(f), the petition under 37 CFR 1.182 is dismissed as inappropriate. In view thereof, no decision on the merits of the petition will be given until an appropriate petition under 37 CFR 1.137(f), accompanied by the requisite petition fee set forth in 37 CFR 1.17(m), is filed.

Since this application is regarded as abandoned and until such time as an appropriate petition to revive has been filed, this application will remain abandoned and the request to rescind the previously filed nonpublication request will not be processed.

This application is being forwarded to Technology Center AU 2153.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 9

HICKMAN PALERMO TRUONG & BECKER
1600 WILLOW STREET
SAN JOSE, CA 95125-5106

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NOV 2 5 2002

OFFICE OF PETITIONS

In re Application of Ashar Aziz Application No. 09/818,424 Filed: March 26, 2001 Attorney Docket No. 55218-0504	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed October 29, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on June 13, 2001. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of March 6, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2153 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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AVAGO TECHNOLOGIES, LTD.
P.O. BOX 1920
DENVER CO 80201-1920

29 MAR 2006

In re Application of
ROBINSON, MICHAEL A., et al
Application No. 09/818,433
Filed: March 26, 2001
For: **FIBER OPTIC RECEIVER WITH AN ADJUSTABLE BANDWIDTH POST-AMPLIFIER**

DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is a decision on the petition filed March 1, 2006 to accept an Information Disclosure Statement (IDS) as originally filed on March 26, 2001 pursuant to 37 C.F.R.§ 1.10(e). No fee is required.

The petition is **GRANTED.**

Petitioner requests that a copy of an IDS filed with the petition be treated as timely filed

Petitioner asserts that an IDS was timely filed on March 26, 2001. In support of the petition, Petitioner has submitted, a copy of the IDS and a date-stamped post card receipt evidencing receipt of the IDS within the United States Patent & Trademark Office on March 26, 2001.

The original IDS filed was not matched with the application file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the U.S.PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the response was timely filed in the Patent and Trademark Office but not matched with the application file. The fees submitted with the original response have been received and credited to the instant application.

In view of the above stated reasons, the IDS filed with the petition is considered as being timely filed on March 26, 2001.

The application file will be forwarded to the Examiner for treatment of the IDS filed with the petition on March 1, 2006.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 3-20-06

TO SPE OF : ART UNIT 2152

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/818448 Patent No.: 6931617

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Check claims

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes do not apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KRISNA LIM
PRIMARY EXAMINER

FIRMIN BACKER
SUPERVISORY PATENT EXAMINER

SPE

2453
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-20-06

TO SPE OF : ART UNIT 2153

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/818448 Patent No.: 6931617

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Check claims

Certificates of Correction Branch

703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

KRISNA LIM
PRIMARY EXAMINER

FIRMIN BACKER
SUPERVISORY PATENT EXAMINER

SPE

2453
Art Unit

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DEC 09 2004

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Mild & Hoffberg, LLP
10 Bank Street
Suite 460
White Plains, NY 10606

In re Application of: Ephraim Brian Finkelstein et al. Serial No. 09/818,483 Filed: March 27, 2001 For: NEGOTIATED RIGHT EXCHANGE SYSTEM AND METHOD	NOTIFICATION OF IDENTIFICATION OF PRIOR ART IN LATE FILED PROTEST UNDER 37 CFR 1.291(a)

The protest filed June 7, 2004 under 37 CFR 1.291 was filed after the November 1, 2001 publication date of the application.

Because the protest was filed after publication of the application, it is untimely and it is not being entered in the application file. The original protest is enclosed with this letter in accordance with MPEP 1901.06, Protest Filed After Allowance or Publication of the Application.

If appropriate, applicant may wish to consider submitting prior art from the protest pursuant to 37 CFR 1.97 and 37 CFR 1.56 during the prosecution of the application.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SM/SM: 12/6/04

Enclosure: Protest filed under 37 CFR 1.291(a)

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 09 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Michael C. Mayo
Baxter Healthcare Corporation
Route 120 and Wilson Rd
Round Lake, IL 60073

Paper No.

In re Application of Daniel Lynn et al Serial No. : 09/818,486 Filed : March 27, 2001 For : Systems and Methods for Collecting Leukocyte-Reduced Blood Components, Including Plasma that is Free or Virtually Free of Cellular Blood Species	: DECISION ON PETITION TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision on a request filed March 3, 2004 to review the holding of abandonment mailed February 10, 2004, for failure to respond to the Office action mailed July 31, 2003. There is no fee required for this petition.

In support of the request, petitioner has submitted a copy of a response, a copy of a three-month extension of time request, and a copy of a PTO stamped receipt dated February 5, 2004. The communication included a certificate of mailing dated February 2, 2004, the 31st of January being a Saturday and the 1st of February a Sunday. It is noted that the original communication has been located and matched with the instant file. Any inconvenience is deeply regretted.

In view of the above, the Notice of Abandonment mailed February 10, 2004, is in error and is hereby vacated. The holding of abandonment is withdrawn. Upon the mailing of this decision, the application will be forwarded to the Examiner via the Legal Instruments Examiner for entry and consideration of the response filed February 5, 2004 as well as the supplemental amendment filed February 9, 2004.

Summary: Holding of Abandonment Withdrawn.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873

ak/03/30/04

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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MAY 25 2006
OFFICE OF PETITIONS

In re Application of :
Aratani et al. :
Application No. 09/818,545 : ON PETITION
Filed: March 28, 2001 :
Attorney Docket No. 35.C15233 :

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed May 12, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed May 5, 2005. The Notice set an extendable 3 month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on August 6, 2005. A Notice of Abandonment was mailed on April 7, 2006.

Petitioner asserts that the non-final Office Action mailed on May 5, 2005 was never received. A review of the record indicates the non-final Office Action while addressed properly was returned to the Office for unknown reasons. As such there was an irregularity in the mailing of the non-final Office Action which prevented petitioner from receiving the office communication.

This application is being forwarded to Art Unit 2623 for re-mailing of the non-final Office Action. The three month extendable time period for reply will be set to run from the mailing date of the new Office Communication.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,072,082 B2

DATED : July 4, 2006

INVENTOR(S) : YOKOTA

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ON THE TITLE PAGE, AT ITEM (74):
Attorney, Agent, or Firm, "Fitzpartick, Cella, Harper & Scinto" should read --Fitzpatrick, Cella, Harper & Scinto--.

ON THE TITLE PAGE, AT ITEM (56), REFERENCES CITED:
Foreign Patent Documents, "JP 3-037348" should read --JP 3037348--.

COLUMN 5:
Line 60, "protrusions" should read --protrusion--.
Line 65, "protrusions" should read --protrusion--.

COLUMN 6:
Line 2, "protrusions" should read --protrusion--.

COLUMN 8:
Line 5, "portion" should read --portion,--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,072,082 B2

No. of add'l. copies
@ 30¢ per page

Form PTO 1050 (Rev. 3-82)
FCJS_WS 1403360 v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/22/08

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/818582 Patent No: 7072082 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: All changes on the Certificate of Correction filed on 2/4/2008 are approved.

Primary Examiner
AU 2625

SPE — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/3/07

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/859/ Patent No.: 6630010

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Roy V. King
SPE

1742
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW 02-02

John Didomenico
8810 East Bear Paw Place
Tucson, AZ 85749

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FEB 28 2002

OFFICE OF PETITIONS

In re Application of
Didomenico et al.
Application No. 09/818,664
Filed: 28 March, 2001
For: EXHAUST OPACITY MEASURING DEVICE

Dear Mr. Didomenico:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Douglas I. Wood at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

for D Wood
Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE, SUITE 400
RESTON VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 02-02

Paper No. 9

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ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE, SUITE 400
RESTON VA 20190

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FEB 28 2002

OFFICE OF PETITIONS

In re Application of	:
Didomenico, Johnson, Stedman,	:
Bishop, and Rendahl	: DECISION ACCORDING STATUS
Application No. 09/818,664	: UNDER 37 CFR 1.47(a)
Filed: 28 March, 2001	:
Attorney Docket No. 23439-032-402	:

This is in response to the petition filed under 37 CFR 1.47(a) on 29 November, 2001.

The petition is **GRANTED**.

Petitioners have shown that despite diligent efforts, non-signing joint inventor John Didomenico could not be reached, and that non-signing joint inventor James H. Johnson has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of petitioners' registered patent attorney, Christopher Cuneo, establishes that a letter was sent to the last known address of joint inventor Didomenico, but the letter was returned as unclaimed by the U.S. Postal Service. Additionally a copy of the patent application was sent to joint inventor Didomenico at his current work address, but he failed to sign and return the declaration. Furthermore, a copy of the application was sent to joint inventor Johnson at his last known address. Johnson has not returned an executed declaration, however.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

HUMAN GENOME SCIENCES INC
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

COPY MAILED

JUN 03 2004

OFFICE OF PETITIONS

Applicant: Feng et al.
Appl. No.: 09/818,683
Filing Date: March 28, 2001
Title: 125 HUMAN SECRETED PROTEINS
Attorney Docket No.: PZ020P1C1
Pub. No.: US 2003/0211472 A1
Pub. Date: November 13, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on January 12, 2004 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 02-02

Paper No. 6

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE, SUITE 400
RESTON VA 20190

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FEB 2 8 2002

OFFICE OF PETITIONS

In re Application of	:
Rendahl, Bogart, and Webster	:
Application No. 09/818,684	: DECISION REFUSING STATUS
Filed: 28 March, 2001	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 47382.000122	:

This is in response to the petition under 37 CFR 1.47(b) filed on 28 December, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 28 March, 2001, without an executed oath or declaration.

Accordingly, on 30 May, 2001, a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on 28 December, 2001, the present petition and petition fee were filed, accompanied by, *inter alia*, a request and payment of the fee for a five (5) month extension of the time to reply to the "Notice" and a declaration naming Craig S. Rendahl, Kelley Bogart, and Jason Webster as joint inventors and

signed by Christopher Cuneo, petitioners' registered patent attorney for Environmental Systems Products Holdings., Inc. (ESP) on behalf of the non-signing inventors, a memorandum asserting proprietary interest on the part of ESP in the present patent application, and a copy of an employment agreement between Envirotest Systems Corp., Inc. (of which ESP is a parent organization).

Petitioners state that a copy of the application papers were sent the three joint inventors, but none has returned an executed declaration.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (1), (5), and (6). In regards to item (1), petitioner has not provided sufficient proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) was sent or given to non-signing inventor Rendahl. Specifically, a bona fide refusal under Rule 47 requires that a copy of the application papers be sent to the non-signing inventor at that inventor's last known address, or, if the non-signing inventor is represented by counsel, to the address of the nonsigning inventor's attorney.[1]

Petitioner should submit a copy of the cover letter transmitting the application papers to the non-signing inventor at the inventor's last known address or details given in an affidavit or declaration of facts by a person with first-hand knowledge of the details.

In regards to item (4), petitioners have not established that the Rule 1.47(b) applicant has sufficient proprietary interest in the

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[1] MPEP 409.03(d).

subject matter to justify the filing of the application.[2] The employment agreement submitted specifically identifies only joint inventor Rendahl. Petitioners have not shown sufficient proprietary interest with regards to the other inventors.

Petitioners may establish proprietary interest by filing a copy of the employment agreement between the non-signing inventors and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

In regards to item (5), petitioner must provide proof of irreparable damages in accordance with MPEP 409.03(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] MPEP 409.03(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 10-02

Paper No. 11

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
ONE FOUNTAIN SQUARE
11911 FREEDOM DRIVE, SUITE 400
RESTON VA 20190

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OCT 0 4 2002
OFFICE OF PETITIONS

In re Application of	: DECISION ON PETITION TO
Rendahl, Bogart, and Webster	: WITHDRAW HOLDING OF
Application No. 09/818,684	: ABANDONMENT AND
Filed: 28 March, 2001	: DECISION ACCORDING STATUS
Attorney Docket No. 47382.000122	: UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a)[1] on 30 September, 2002. This is also a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment filed on 30 September, 2002.

The petition is **GRANTED**.

The application was held abandoned on 31 July, 2001, for failure to file a timely reply to the Notice to File Missing Parts mailed on 30 May, 2001, which set a two (2) month period for reply. Notice of Abandonment was mailed on 16 September, 2002.

Petitioners argue that a reply to the Notice mailed on 30 May, 2001, was timely filed. In support, petitioners point to the petition under 37 CFR 1.47(b) and five (5) month extension of time filed on 28 December, 2001. As the petition and extension of time formed a timely and complete rely to the Notice mailed on 30 May, 2001, the application is not abandoned.

---

[1]A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The holding of abandonment is withdrawn, and the Notice of Abandonment mailed on 16 September, 2002, is vacated.

Petitioners have shown that the non-signing inventors, Craig S. Rendahl and Jason Webster, have refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, the declaration of facts of registered patent attorney Sean L. Ingram establishes that joint inventor Rendahl was mailed a copy of the application papers but has failed to execute the declaration. Furthermore, petitioners have previously established, in the petition under 37 CFR 1.47(b) filed on 28 December, 2001, that joint inventor Webster was mailed a copy of the application papers but failed to executed the declaration. Joint inventor Bogart has now joined in the filing of the application by signing the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 10-02

Craig S. Rendahl
4642 Globeberry Street
Tucson, AZ 85741

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OCT 0 4 2002

OFFICE OF PETITIONS

In re Application of
Rendahl et al.
Application No. 09/818,684
Filed: 28 March, 2001
For: DATA PROCESSING AND VALIDATION

Dear Mr. Rendahl:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

for Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC
12010 SUNSET HILL ROAD
SUITE 900
RESTON VA 20190

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

July 7, 2003

Jiawei Huang
J.C. Patents, Inc.
4 Venture, Suite 250
Irvine, CA 92618

In re application of:
Terng-Yin Hsu DECISION ON PETITION
Serial No.: 09/818,697
Filed: March 27, 2001
For: METHOD OF OPERATING A MATCHED FILTER OF A PAM WITH VARIABLE LENGTHS

This is a decision on the petition received by fax on February 27, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed May 3, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 5, 2001.

On February 27, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed May 3, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed May 3, 2001.

The petition is hereby Granted.

A new Notice to File Missing Parts is enclosed with this Decision setting forth a new response period of two months from the date of the notice.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

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JJGJR.: 02-05

Paper No: __

FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

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FEB 04 2005

OFFICE OF PETITIONS

In re Application of :
Gyorgy, et al. :
Application No. 09/818,706 :
Filing Date: 27 March, 2001 :
Attorney Docket No. L11226 :

This is a decision on the petition filed on 21 December, 2004, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

NOTE: The Notice of Change of Address is acknowledged and entered.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 15 March, 2004, with response due under a non-extendable deadline on or before 15 June, 2004;

- the application went abandoned after midnight 15 June, 2004;
- the Office mailed the Notice of Abandonment on 26 July, 2004;
- on 21 December, 2005, Petitioner filed the instant petition and fee, the reply in the form of fees due, and made the statement of unintentional delay.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to Publications Branch to be processed into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 26, 2006 Apv M. Mofiz

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/818,708 Patent No.: 7174318 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Antonio Johnson
Certificates of Correction Branch
703-308-9390 ext. 111

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

APU MOFIZ
SUPERVISORY PATENT EXAMINER

SPE — 2161 **Art Unit**

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#8

MINZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE 02111
TELEPHONE FINANCIAL CENTER
BOSTON, MA 617/348-1765

In re Application of	:	
Albert et al	:	
Serial No.: 09/818,822	:	DECISION ON PETITION
Filed: March 27, 2001	:	
For: Low-Field MRI	:	

This is in response to applicants' petition filed August 8, 2003 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact John Kittle by letter addressed to the Director, Technology Center 3700/2900, Washington, DC 20231, or by telephone at (703) 308-0873 or by facsimile transmission at (703) 308-3139.

John E. Kittle
Director,
Technology Center 3700/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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NOV - 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Paper No. 4

LEYDIG, VOIT & MAYER, LTD.
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago, IL 60601-6780

In re Application of
Peter J. ORTOLEVA
Application No. 09/818,752
Filed: March 27, 2001
For: METHODS AND SYSTEMS FOR SIMULATION-ENHANCED FRACTURE DETECTIONS IN SEDIMENTARY BASINS

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed October 10, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communication from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the U.S. Patent and Trademark Office (the Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: Peter J. Ortoleva
Indiana University
Department of Chemistry, Room C-203
Bloomington, IL 47405

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,478,966	2002-11-12	09/818,775	2001-03-28	3519-0109P

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/mark j. nuell/	Date (YYYY-MM-DD)	2007-04-26
Name	Mark J. Nuell	Registration Number	36623

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6478966
Issue Date: November 12,2002
Application No. 09818775
Filed: March 28,2001
Attorney Docket No. 3519-0109P

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 26,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 26,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of :
Tetsuya Noguchi et al. :
Application No. 09/818,802 : ON PETITION
Filed: March 27, 2001 :
Attorney Docket No. JP920000026US1 :

This is a decision on the petition to withdraw the holding of abandonment, filed May 18, 2007, and treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned on March 4, 2005, for failure to file a timely response to the non-Final Office Action mailed December 3, 2004. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on June 16, 2005.

Petitioner asserts that a proper response in the form of an amendment was filed on March 4, 2005. Submitted as proof is a copy of the response with a certificate of mail dated March 2, 2005.

A search of the application file and the USPTO records reveal that in fact, an amendment was timely filed on March 4, 2005. It appears though that the response was placed in an incorrect application file but is now properly matched with the instant application file and noted as having been timely filed.

Accordingly, the Notice of Abandonment mailed June 16, 2005 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2137 for treatment of the response filed March 4, 2005 resubmitted with the instant petition.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GARDEN CITY NY 11530

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NOV 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Tetsuya NOGUCHI et al.	:	
Application No. 09/818,802	:	DECISION ON PETITION
Filed: March 27, 2001	:	
Attorney Docket No. JP920000026US1	:	

This is a decision on the petition under 37 CFR 1.183 filed May 26, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed June 30, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 31, 2008.

Petitioner asserts that the Office action dated June 30, 2008 was not received.

MPEP 711.03(c)(I)(A) states, with emphasis added,

> [A]n allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action.....

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

Accordingly, absent the required evidence to establish nonreceipt of the Office action of June 30, 2008, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY NY 11530

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JAN 07 2010

In re Application of	:	
Tetsuya NOGUCHI et al.	:	
Application No. 09/818,802	:	DECISION ON PETITION
Filed: March 27, 2001	:	
Attorney Docket No. JP920000026US1	:	

This is a decision on the renewed petition, filed January 05, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed June 30, 2008, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 31, 2008.

Petitioner asserts that the Office action dated June 30, 2008 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries related to this decision should be addressed to the Michelle R. Eason at (571) –272-4231.

This application is being referred to Technology Center Art Unit 2437 for appropriate action in the normal course of business on the reply received May 26, 2009.

for Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 8

G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

MAIL

JUN 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In Re Application of
Shlomo Berliner
Application Serial No. 09/818, 855
Filed: March 28, 2001
For: **SYSTEM AND METHOD FOR GENERATING A PROFILE OF PARTICULATE COMPONENTS OF A BODY FLUID SAMPLE**

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed May 13, 2004, requesting acceptance of color drawings/photographs.

The petition requests that the color drawings, although not specifically identified but noted as, figures 3-22b be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. § 1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), three (3) sets of the color drawings in question, a black and white photocopy of said drawings, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

" The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition was filed with the required fee and 3 (three) sets of color drawings/photographs of figures 3-22b. The subject petition also contained a proposed amendment to the specification which reflects the required notification described above.

The petition is **GRANTED**.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

PIERCE ATWOOD
ONE MONUMENT SQUARE
PORTLAND, ME 04101

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AUG 0 3 2004
OFFICE OF PETITIONS

In re Application of
Bin Wei et al
Application No. 09/818,874
Filed: March 27, 2001
Attorney Docket No. 9038-118200

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 29, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 30, 2002.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

The application file is being forwarded to Technology Center AU 2863.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

MAIL

MAY 1 9 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of: Dominic J. Gasbarro, et al.	)	
Application No. 09/818,902	)	
Filed: March 28, 2001	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**
For: HOST-FABRIC ADAPTER HAVING WORK QUEUE ENTRY (WQE) RING HARDWARE ASSIST (HWA) MECHANISM	)	

This is a decision on the Request To Withdraw from Representation filed May 1, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Schwegman, Lundberg, Woesnner & Kluth P.A.
c/o Anne Richards
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

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JUL 3 0 2003

Technology Center 2100

Paper No. 7

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of:	)	
Dominic J. Gasbarro, et al.	)	
Application No. 09/818,902	)	
Filed: March 28, 2001	)	**DECISION ON REQUEST FOR**
For: HOST FABRIC ADAPTER HAVING	)	**WITHDRAWAL AS ATTORNEY**
WORK QUEUE ENTRY (WQE)	)	
RING HARDWARE ASSIST (HWA)	)	
MECHANISM	)	

This is a decision on the Request To Withdraw from Representation filed May 23, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The signer of the petition, Paul J. Skwierawski, is no longer appointed as an attorney or agent of record. Therefore, he is not authorized to act on behalf of the attorneys of record, nor can he effect a change of address. Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lacasse & Associates, LLC
1725 Duke Street
Suite 650
Alexandria. VA 22314

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FEB 17 2005

OFFICE OF PETITIONS

In re Application of

Morozov, et al.

Application No. 09/818,909

Filed: March 28, 2001

Attorney Docket No. 10-377 US CIP

: DECISION ON

: PETITION

This is a decision on the petition under 37 CFR §1.137(b), January 4, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to reply to the "Notice of Allowance and Issue Fee Due" requiring payment of the issue fee mailed March 9, 2004, which set a statutory period for reply of three (3) months from its mailing dates. No response was received within the allowable period, and the application became abandoned on June 10, 2004. A Notice of Abandonment was mailed on August 25, 2004.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any

portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (2) above.

An attempt was made to charge deposit account 12-0010 the petition fee of $1,500.00 pursuant to the authorization of Thien Tran. According to Office records, Thien Tran is not an authorized user of deposit account 12-0010 so the deposit account could not be charged pursuant to that authorization. Any renewed petition filed must be accompanied by a check for the petition fee or a proper authorization to charge a deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LACASSE & ASSOCIATES, LLC
1725 DUKE STREET
SUITE 650
ALEXANDRIA, VA 22314

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MAR 1 5 2005

OFFICE OF PETITIONS

In re Application of

Morozov, et al.

Application No. 09/818,909

Filed: March 28, 2001

Attorney Docket No. 10-377 US CIP

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), March 9, 2005, to revive the above-identified application.

The renewed petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and the publication fee of as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 9, 2004. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 10, 2004. A Notice of Abandonment was mailed on August 25, 2004. A petition under 37 CFR 1.137(b) was filed on January 4, 2005, and dismissed by a decision mailed February 17, 2005.

The issue fee of $1,330.00 and publication fee of $300.00 were received on June 28, 2004.

The petition fee of $1,500.00 will be charged to deposit account 12-0010.

The application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044

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JUL 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Ulf Eriksson et al	:	
Application No. 09/818,943	:	DECISION GRANTING PETITION
Filed: March 28, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1064/48487	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 29, 2004, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1635.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KENING LI
1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044

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OFFICE OF PETITIONS

In re Application of	:	
Ulf Eriksson et al	:	
Application No. 09/818,943	:	DECISION GRANTING PETITION
Filed: March 28, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1064/48487	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 29, 2004, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

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This matter is being referred to Technology Center AU 1635.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KENING LI
1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
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WASHINGTON DC 20044

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of Ulf Eriksson et al Application No. 09/818,943 Filed: March 28, 2001 Attorney Docket No. 1064/48487	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of July 29, 2004, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1635.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
KENING LI
1001 PENNSYLVANIA AVENUE, N.W.
WASHINGTON DC 20004

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In re Application of Paszty et al. :
Application No. 09/818,954 : Decision on Petition
Filing Date: March 27, 2001 :
Attorney Docket No. A-676B :

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed December 27, 2004. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, this application became abandoned on March 28, 2005. A Notice of Abandonment was mailed on September 12, 2005.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1647 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Thomas, Kayden, Horstemeyer & Risley, LLP
100 Galleria Parkway, NW
Suite 1750
Atlanta, GA 30339-5948

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In re Application of	:	
L. Wayne Sanderson, et al.	:	
Application No. 09/818,975	:	ON PETITION
Filed: March 27, 2001	:	
Attorney Docket No. 00-0564.56/US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 26, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (3).

A Restriction Requirement was mailed to applicant on November 18, 2003 that set a one-month shortened statutory period within which to submit a reply. Since no reply was received and no extensions of time under the provisions of 37 CFR 1.136 were obtained, the application became abandoned on December 19, 2003.

Petitioner has provided a five (5) month extension of time with the instant petition, suggesting that the date of abandonment is May 18, 2004. Nevertheless, an extension of time can only be obtained within six months from the mail date of the Office action at hand. Since the present extension was filed outside the six-month statutory period, it cannot be accepted and the date of abandonment is not extended. Petitioner may request a refund of the $1005 extension of time fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany such a request.

With respect to item (3) noted above, petitioner has not met his burden of proof to establish to the satisfaction of the Commissioner that the entire delay in prosecution was herein unintentional within the meaning of 35 USC 41(a)(7) and 37 CFR 1.137(b).

35 U.S.C. § 41(a)(7) applies to the situation of the above-identified application (*i.e.*, to the revival of an abandoned application), however, it precludes the Commissioner from reviving the above-identified application. The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Commissioner to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable."[emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where there is a question whether the delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989). The language of both 35 USC 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. However, as noted in more detail infra, both the delay herein in filing the reply during prosecution, and in filing the petition after abandonment, are inconsistent with a finding that the entire delay herein was unintentional, such that revival is warranted.

The showing of record is that the assignee deliberately withheld a reply to the Office action and intended that this application become abandoned. This application did become abandoned as a result of the assignee's deliberate intent. Thus, the assignee intended that no reply be filed and intended that prosecution be discontinued. This application became abandoned as a result of that deliberate intent.

An application abandoned by a deliberate decision not to continue prosecution of such application it not an "unintentionally abandoned application" within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See Application of G, 11 USPQ2d at 1380. The intentional abandonment of an application precludes revival under 37 CFR 1.137(a) or (b). In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988).

While petitioner argues that there was no deliberate decision on his part not to continue prosecution of the above-identified application, this argument does not cause the assignee's intentional abandonment of the above-identified application to become an unintentional abandonment on petitioner's part:

> Where the applicant deliberately permits an application to become abandoned (*e.g.*, due to a conclusion that the claims are unpatentable, that a rejection in an Office action cannot be overcome, or that the invention lacks sufficient commercial value to justify continued prosecution), the abandonment of such application is considered to be a deliberately chosen course of action, and the resulting delay cannot be considered as "unintentional" within the meaning of [37 CFR] 1.137(b). Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of [37 CFR] 1.137(b). An intentional delay resulting from a deliberate course of action chosen by the applicant is not affected by: (1) the correctness of the applicant's (or applicant's representative's) decision to abandon the application or not to seek or persist in seeking revival of the application; (2) the correctness or propriety of a rejection, or other objection, requirement, or decision by the Office; or (3) the discovery of new information or evidence, or other change in circumstances subsequent to the abandonment or decision not to seek or persist in seeking revival. Obviously, delaying the revival of an abandoned application, by a deliberately chosen course of action, until the industry or a competitor shows an interest in the invention (a submarine application) is the \pard softlineantithesis of an "unavoidable" or "unintentional" delay. An intentional abandonment of an application, or an intentional delay in seeking either the withdrawal of a holding of abandonment in or the revival of an abandoned application, precludes a finding of unavoidable or unintentional delay pursuant to [37 CFR] 1.137.

See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53132 at 53158-59 (October 10, 1997), reprinted at 1203 Off. Gaz. Pat. Office, 65 at 86 (October 21, 1997) (citations omitted).

Petitioner further argues that the word "applicant" refers to the inventor or joint inventors of the application. However, the applicants assigned their patent application rights to Verilink, Corp. who made the decision not to prosecute the application, resulting in its abandonment. When the issue of revival is addressed, the focus must be on the rights of the parties as of the time of abandonment. See Kim v. Quigg, 781 F. Supp. 1280, 1284, 12 USPQ2d 1604, 1607 (E.D. Va 1989). Petitioner, as the assignor of his interest, could not demand that the assignee prosecute this case. An assignment of the entire right, title, and interest, passes both legal and equitable title. See, Wende v. Horine, 191 F. 620, 621 (C.C.N.D. Ill. 1911). Thus petitioner, as the assignor of his entire interest, could not insist that the application be prosecuted by the assignee, as the assignee was free to deal with the application it willed. See Garfield v. Western Electric Co., 298 F.659 (S.D.N.Y. 1924). As noted in MPEP 711.03(c), the question under 37 CFR 1.137 is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. As the assignee intended that this application should become abandoned, the entire delay in prosecution during pendency and thereafter, results from an intentional action or inaction by the true party of interest. Further, petitioner, as the successor in title to the assignee is bound by any intentional delay arising from the assignee or his counsel, during the time the assignee was the owner. See Winkler v. Ladd, 221 F.Supp 550, 552, 138 USPQ 666, 668 (D.D.C. 1963); Kim v. Quigg, supra. That petitioner may have acted with dispatch after obtaining rights to this then abandoned application is immaterial to, and does not overcome, the abandonment and resultant delay attributable to the assignee. Kim, supra; Winkler, supra.

If the rights of the assignee were terminated prior to or at the time the reply was due, petitioner should submit evidence of this termination, as well as an explanation as to why the applicants (by petitioner's definition) themselves, did not reply to the Restriction. However, if the rights of the assignee remained in effect during the aforementioned time, the application will continue to be abandoned.

If the assignee failed to perform any obligation of notification of its intent to abandon this application to petitioner, then petitioner's remedy with respect to the assignee would appear to lie under jurisprudence, and not by seeking the impermissible revival of an intentionally abandoned application before the USPTO.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 11

Briggs and Morgan, PA
2400 IDS Center
Minneapolis, MN 55402

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SEP 1 5 2003

OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 09/818,989	:	ON PETITION
Filed: March 26, 2001	:	
Attorney Docket No. 33088.34	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 2, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed March 21, 2002, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on June 22, 2002.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $985 extension of time submitted with the petition on July 2, 2003 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to Technology Center 1723 for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW 04-01

Paper No. 11

RICHARD A BOOTH JR
4372 N WILDWOOD AVENUE
MILWAUKEE, WI 53211

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OFFICE OF PETITIONS
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In re Application of Richard A. Booth Application No. 09/819,033 Deposited: 31 August, 2000 For: Control Methodology for Inertial Energy Storage Devices	DECISION DISMISSING PETITION

This is a decision on the petition filed on 16 January, 2001, requesting that the Continued Prosecution Application (CPA) filed on 31 August, 2000, and based on prior application No. 09/235,192 (issued as U.S. Patent No. 6,120,411 on 19 September, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 31 August, 2000.

The petition is **DISMISSED**.

A review of the file of prior application No. 09/235,192 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/235,192 was filed in the above-identified patent application on 31 August, 2000. The prior application, however, issued as U.S. Patent No. 6,120,411 on 19 September, 2000, as a result of applicant's payment of the issue fee on 26 June, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/235,192 are no longer available for processing under 37 CFR 1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 31 August, 2000, have been removed from the file of application No. 09/235,192 and have been assigned application No. 09/819,033 for identification purposes. The present petition has also been placed in the file of Application No. 09/819,033. All further correspondence concerning the application deposited on 31 August, 2000, should be directed to Application No. 09/819,033, <u>not Application No. 09/235,192.</u>

The present petition requests that the CPA request be treated as an application under 37 CFR 1.53(b). A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed on 16 January, 2001, is not accompanied by a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration.

Accordingly, the petition is dismissed.

However, this decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior application as originally filed.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] See 37 CFR 1.181(f).

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United States Patent and Trademark Office
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www.uspto.gov
DIW 09-01

Paper No. 6

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OFFICE OF PETITIONS

RICHARD A BOOTH JR
4372 N WILDWOOD AVENUE
MILWAUKEE, WI 53211

In re Application of
Richard A. Booth
Application No. 09/819,033
Filed: 31 August, 2000
For: Control Methodology for
Inertial Energy Storage Devices

DECISION GRANTING PETITION

This is a decision on the renewed petition filed on 5 July, 2001, requesting that the Continued Prosecution Application (CPA) filed on 31 August, 2000, and based on prior application No. 09/235,192 (issued as U.S. Patent No. 6,120,411 on 19 September, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 31 August, 2000.

The petition is **GRANTED**.

The renewed petition is accompanied by a specification, drawings, and a signed declaration, which petitioner states are a copy of the complete non-provisional application. The submission of these application papers with the petition is understood as a representation by *pro se* applicant that the specification and drawings do not contain any subject matter that would have been new matter in the prior application.

This application is being forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), <u>not under 37 CFR 1.53(d)</u>, with a filing date of 31 August, 2000, using the application papers supplied on 5 July, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JJGJR.: 01-04

Paper No: 18

RICHARD A. BOOTH, JR.
4372 NORTH WILDWOOD AVENUE
MILWAUKEE WI 53211

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OFFICE OF PETITIONS

In re Application of
Booth :
Application No. 09/819,033 : ON PETITION
Filed: 23 August, 2000 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 22 December, 2003, to revive the above-identified application under 37 C.F.R. §1.137(a)

For the reasons set forth below, the petition under 37 C.F.R.§1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b) (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

(3) Petitioner's submissions suggest a lack of familiarity with practice before the Office. Petitioner may wish to seek the guidance of an individual registered to practice before the Office, which information may be found at www.uspto.gov.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 23 May, 2003, with a reply due (absent a request and fee for extension of time) on or before Monday, 25 August, 2003;
- as a result, the application was deemed abandoned after midnight 23 August, 2003;
- Notice of Abandonment was mailed on 17 December, 2003;
- Petitioner alleges severe illness in October 2003 was the cause of the abandonment–but presents no documentary evidence in support of the allegation;
- moreover, the shortened statutory period elapsed before Petitioner indicates the onset of his illness;
- contemporaneously with the petition, Petitioner submits a document:

  --in which he describes his delay as unintentional, rather than unavoidable; and

  --which, while it may be intended as a reply to the 23 May, 2003, Office action, does not appear to be in conformance with Office practice (see: MPEP §714).
- as indicated, a reply was filed with the instant petition, however, Petitioner may find that it is not sufficient.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive

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[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Petitioner has failed to: make a showing of unavoidable delay, and, in fact, has indicated that his delay was unintentional.

Accordingly, in view of the record, the petition as considered under 37 C.F.R. §1.137(a) hereby is **dismissed** for failing to satisfy the "showing" requirement. Further, Petitioner is reminded that his reply may not satisfy the "reply" requirement.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay surpassing that tendered heretofore, Petitioner's only alternative to irretrievable abandonment likely is to file a petition and

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[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared and/or deposited for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely prepared and/or deposited for shipment.

fee as set forth at NOTE 1, above at page 1, under 37 C.F.R. §1.137(b), and state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition (with fee) pursuant to 37 C.F.R. §1.137(b) was unintentional."

Thus, Petitioner may wish to supplement his petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing " burden is much less onerous.

A copy of the form for this petition is enclosed herewith.

Petitioner is cautioned that failure to submit such a petition 37 C.F.R. §1.137(b) timely may be viewed as intentional delay and an absolute bar to revival.

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)[7]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
ATTN.: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl: Form: Petition for revival alleging unintentional delay

[7] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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JJGJR.: 02-04

Paper No: 20

RICHARD A. BOOTH, JR.
4372 NORTH WILDWOOD AVENUE
MILWAUKEE WI 53211

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OFFICE OF PETITIONS

In re Application of
Booth :
Application No. 09/819,033 : ON PETITION
Filed: 23 August, 2000 :
Attorney Docket No. (None) :

This is a decision on the petition filed on 19 February, 2004, to revive the above-identified application under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 23 May, 2003, with a reply due (absent a request and fee for extension of time) on or before Monday, 25 August, 2003;
- as a result, the application was deemed abandoned after midnight 23 August, 2003;
- Notice of Abandonment was mailed on 17 December, 2003;
- in his original petition filed on 22 December, 2003, under 37 C.F.R. §1.137(a), Petitioner alleged that severe illness in October 2003 was the cause of the abandonment–but presented no documentary evidence in support of the allegation, and so the petition was dismissed on 29 January, 2004;

- contemporaneously with filing of the original petition, Petitioner submitted a document which, he apparently intended and now intends as his reply to the 23 May, 2003, Office action in satisfaction of the "reply" requirement of the regulation;

- with the instant petition, Petitioner now has satisfied the "showing" and "statement" requirements.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2] Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Petitioner has satisfied the petition, fee, reply and statement requirements of the regulation.

Accordingly, in view of the record, the petition as considered under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is being returned to Technology Center 3600 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared and/or deposited for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely prepared and/or deposited for shipment.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Jorma A. Virtanen
Application No. 09/139,213
Filed: August 24, 1998
Attorney Docket No. 1296-14-999

In re Application of
Jorma A. Virtanen
Application No. 09/819,036
Filed: February 20, 2001
Attorney Docket No. 18950-67

DECISION GRANTING PETITION

This is a decision on the petition filed April 11, 2001, requesting that a Continued Prosecution Application (CPA) filed February 20, 2001, based on prior application No. 09/139,213 be treated as an application under 37 CFR 1.53(b) and accorded a filing date of February 20, 2001.

The request for a CPA based on prior application No. 09/139,213 was deposited on February 20, 2001. Since the issue fee was paid in the prior application on November 13, 2000, a petition to withdraw the application from issue was also filed on February 20, 2001. However, the petition and the file of the prior application were not received by the appropriate official within sufficient time to avert issuance of the prior application as U.S. Patent No. 6,196,979 on March 6, 2001. Accordingly, the CPA request cannot be processed as a proper CPA.

The present petition is filed in response to the decision mailed March 14, 2001, in the prior application. Petitioner requests that the request for a CPA be treated as a continuation application filed under 37 CFR 1.53(b). The petition is accompanied by, inter alia, a specification, drawings and a copy of a signed declaration from the prior application.

The petition is granted. Under the circumstances of this case, no petition fee has been charged to counsel's deposit account, nor is one due.

The continuation application under 37 CFR 1.53(b) has been assigned application No. 09/819,036. All further correspondence concerning the continuation application filed on February 20, 2001, should be directed to application No. 09/819,036.

In view of this decision, the CPA request filed on February 20, 2001, and the petition filed on April 11, 2001, have been removed from the file of application No. 09/139,213 and placed in the file of application No. 09/819,036. The CPA filing fee paid in Application No. 09/139,213 will be applied to Application No. 09/819,036.

Since the petition under 37 CFR 1.313(c) was timely filed but a decision thereon was not rendered prior to the parent application issuing as a patent, the procedures set forth below should be followed.

> If the information disclosure statement (IDS) filed along with or referred to in the petition under 37 CFR 1.313(c) complies with the requirements of 37 CFR 1.97 and 1.98, it will be considered by the examiner in the continuing application filed under 37 CFR 1.53(b).
>
> The examiner should make all applicable prior art rejections in the 37 CFR 1.53(b) application (not just include a statutory double patenting rejection under 35 U.S.C. 101) based on the information cited in the IDS, alone or with other information, including any new art found in updating an old search or performing a new search.
>
> If the examiner determines that the information cited in the IDS, alone or in combination with other information does not raise a question of unpatentability with respect to the claims in the continuing application (which are identical to the claims in the parent patent), then the examiner should make a statutory double patenting rejection under 35 U.S.C. 101. Applicant may then abandon the continuing application.
>
> If the examiner determines that the information cited in the IDS, alone or in combination with other information raises a prima facie case of unpatentability with respect to the claims in the continuing application (which are identical to the claims in the parent patent), then the examiner should make the appropriate prior art rejection along with the statutory double patenting rejection under 35 U.S.C. 101. If prosecution of the continuing application results in an amendment of the claims due to unpatentability, a statutory disclaimer of the unpatentable claims must be filed in the parent patent, and a terminal disclaimer can be filed in the continuing application if the amended claims would have been obvious over any claim of the parent patent so as to permit the continuing application to issue with the amended claims.

Prior Application No. 09/139,213 is being returned to the files repository.

Application No. 09/819,036 is being forwarded to Initial Patent Examination Division for processing as a continuation application under 37 CFR 1.53(b), <u>not as a CPA under 37 CFR 1.53(d)</u>, with a filing date of February 20, 2001, using the copy of the specification, drawings and declaration supplied on April 11, 2001.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 24

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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JUN 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Jorma A. Virtanen :
Application No. 09/819,036 :
Filed: February 20, 2001 :
Attorney Docket No. 18950-69 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 26, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 27, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 3736 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-06

Paper No: __

BRIAN E. HANLON
BANNER & WITCOFF, LTD.
1001 G STREET NW
ELEVENTH FLOOR
WASHINGTON, DC 20001

COPY MAILED
JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Schroeder	:	DECISION
Application No.: 09/819,040	:	
Filing Date: 23 April, 2001	:	
Attorney Docket No. 006366.0080	:	

This is a decision on the petition filed on 12 May, 2004, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181; alternatively, on the 6 June, 2006, petition, which seeks to revive the application alleging unintentional delay–albeit sketchily–and is considered under 37 C.F.R. §1.137(b).[1]

NOTES:

The Change of Correspondence Address and Revocation/Power of Attorney presented with the instant petition has not been entered because, at this writing, Petitioner must include a certificate under 37 C.F.R. §3.73(b) to support the authority.

Thus, while a copy of the instant decision is being sent to Petitioner as a courtesy, no change has been made as of this writing in Office records, and Petitioner must satisfy these requirements to effectuate the change.

[1] Petitioner is directed to the petition form on the Office website–www.uspto.gov–and should Petitioner insist upon using his own form, Petitioner is reminded that it must have at least the content of the Office form, and in particular as to the wording of the statement of unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**; and the petition considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted.

(It is noted, however, that Petitioner may be unable to present a satisfactory showing to support a petition under 37 C.F.R. §1.181, and **Petitioner's only alternative is to file a petition under 37 C.F.R. §1.137(b)**.)

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- then-Petitioner/Counsel Brian E. Hanlon (Reg. No. 40,449) failed to reply timely and properly to a non-final Office action mailed on 15 May, 2003 (the May 2003 Office action), with reply due absent extension of time on or before 15 August, 2003;[2]
- the instant application went abandoned after midnight 15 August, 2003;
- the Office mailed the Notice of Abandonment on 16 December, 2003;[3]
- on 12 May, 2004, then-Petitioner/Counsel submitted a request (the May 2004 request) to withdraw the holding of abandonment nine (9) months after abandonment and five (5) months after Notice thereof, and therein then-Petitioner/Counsel averred that the Office had failed to enter the Revocation/Power of Attorney filed on 10 October, 2001–as

[2] A copy of this paper is enclosed herewith in order that Petitioner may reply properly in support of a petition under 37 C.F.R. §1.137.

[3] A a copy of this paper also is enclosed herewith.

indicated by a date-stamped receipt card (see: MPEP §503[4])–and so the May 2003 Office action was mailed to an incorrect address, as was the Notice of Abandonment;

- what then-Petitioner/Counsel failed to acknowledge was that: (a) the Revocation/Power of Attorney was an incomplete submission in that it was not accompanied, *inter alia*, by a certificate under 37 C.F.R. §3.73(b); and (b) then-Petitioner/Counsel had made absolutely no inquiry into the Status of the instant application in the twenty-nine (29) months between the date of his deposit of the Revocation/Power of Attorney and the filing of the May 2004 request;[5]

- there is a suggestion that then-Petitioner/Counsel sought to submit a Status inquiry on 28 October, 2004,[6] however, there is no copy of a date-stamped receipt card evidencing Office receipt thereof;

---

[4] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

[5] It is noted that then-Petitioner/Counsel filed an Application Data Sheet (ADS) on 28 January, 2004.

[6] This information comes by way of and a copy of the document is attached to the 6 June, 2006, petition.

- on 6 June, 2006, Petitioner/Counsel Stefan V. Stein (Reg. No. 29,702) submitted the most recent petition–alleging, *inter alia*, unintentional delay–and also re-asserted the request to withdraw the holding of abandonment.

Indeed, the Office apparently did not enter in 2001 a revocation/power of attorney, however, as noted above, the request was incomplete and–other than submit an ADS–then-Petitioner/Counsel appears to have taken no action in the matter between October 2001 and May 2004–thus ignoring what now is alleged to have been Office error and never bringing the matter to the attention of the Office.

The showing that then-Petitioner/Counsel had to make was and is set out in the commentary at MPEP §711.03(c) and the regulations at 37 C.F.R. §1.181–specifically the timing requirements.

Thus, then-Petitioner/Counsel ignored not only the facts but also the procedure applicable herein.

As a result, if Petitioner now has undertaken the instant matter, he can have no more than what was present before he came into the matter–and his only recourse may well be to obtain revival of the application under the provisions of 37 C.F.R. §1.137(b).

However, even there Petitioner faces certain hurdles. The chain of assignments (and so, chain of title) is unclear, and so the assignee's–and Petitioner's–authority must be clarified from the inventor to the first assignee to subsequent assignee(s). Moreover, Petitioner was not of record at the time the instant application went abandoned, and, accordingly, any statement of unintentional delay must be made by then-Counsel or the inventor/assignee(s) who held title at the time in question.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[7]

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[7] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

Monitoring of the status of applications on Private PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Then-Petitioner/Counsel ignored the requirement that the petition herein be filed within two months of the action complained of. (See: 37 C.F.R. §1.181.).

Accordingly, then-Petitioner/Counsel ignored one or more of the showings required to prevail.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[8]

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[8] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[9]

Delays in responding properly raise the question whether delays are unavoidable.[10] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[11]

And the Petitioner must be diligent in attending to the matter.[12] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[13]))

Withdrawal of the
Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[14]

Further, the commentary at MPEP §711.03(c) provides:

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the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[9] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[10] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[11] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[12] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[13] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[14] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat.

1988). (Emphasis supplied.)

* * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Thus, as of this writing Petitioner appears not to have satisfied and not to be able to satisfy the showing and/or the timeliness requirements described above.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

As of this writing Petitioner has not satisfied the "reply," "fee"and "showing/statement" requirements of the regulation.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **dismissed**; and the petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[15]

By mail: Commissioner for Patents[16]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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[15] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[16] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl: 15 May, 2003, Non-final Office Action
16 December, 2003, Notice of Abandonment

cc:
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

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In re Application of :
Schroeder :
Application No.: 09/819,040 :
Filing Date: 23 April, 2001 :
Attorney Docket No. 006366.0080 :

DECISION

This is a decision on the petition filed on 12 October, 2006, to revive the application alleging unintentional delay under 37 C.F.R. §1.137(b).[1]

NOTES:

It appears that the Office may have incorrectly entered data as to the Correspondence Address in this matter, and attempts to correct this error at the time of the writing of this decision were unsuccessful.

Thus, while a copy of the instant decision is being sent to Petitioner, Petitioner also is cautioned to re-Notice the Office immediately upon receipt of this decision to the correct mailing address in this matter so that the error may be resolved before an Office action is mailed.

[1] Petitioner is directed to the petition form on the Office website–www.uspto.gov–and should Petitioner insist upon using his own form; Petitioner is reminded that it must have at least the content of the Office form, and in particular as to the wording of the statement of unintentional delay.

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For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- then-Petitioner/Counsel Brian E. Hanlon (Reg. No. 40,449) failed to reply timely and properly to a non-final Office action mailed on 15 May, 2003 (the May 2003 Office action), with reply due absent extension of time on or before 15 August, 2003;[2]
- the instant application went abandoned after midnight 15 August, 2003;
- the Office mailed the Notice of Abandonment on 16 December, 2003;[3]
- on 12 May, 2004, then-Petitioner/Counsel submitted a request (the May 2004 request) to withdraw the holding of abandonment nine (9) months after abandonment and five (5) months after Notice thereof, and therein then-Petitioner/Counsel averred that the Office had failed to enter the Revocation/Power of Attorney filed on 10 October, 2001–as indicated by a date-stamped receipt card (see: MPEP §503[4])–and so the May 2003 Office

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[2] A copy of this paper is enclosed herewith in order that Petitioner may reply properly in support of a petition under 37 C.F.R. §1.137.

[3] A a copy of this paper also is enclosed herewith.

[4] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the

action was mailed to an incorrect address, as was the Notice of Abandonment;

- what then-Petitioner/Counsel failed to acknowledge was that: (a) the Revocation/Power of Attorney was an incomplete submission in that it was not accompanied, *inter alia*, by a certificate under 37 C.F.R. §3.73(b); and (b) then-Petitioner/Counsel had made absolutely no inquiry into the Status of the instant application in the twenty-nine (29) months between the date of his deposit of the Revocation/Power of Attorney and the filing of the May 2004 request;[5]

- there is a suggestion that then-Petitioner/Counsel sought to submit a Status inquiry on 28 October, 2004,[6] however, there is no copy of a date-stamped receipt card evidencing Office receipt thereof;

- on 6 June, 2006, Petitioner/Counsel Stefan V. Stein (Reg. No. 29,702) submitted the most recent petition–alleging, *inter alia*, unintentional delay–and also re-asserted the request to withdraw the holding of abandonment–and those petitions were dismissed on 10 July, 2006, for failing to satisfy the "reply" and "showings" requirements and for failing to include the statement of the former Counsel or that of the Assignee regarding the nature of the unintentional delay;

- with the instant petition, Petitioner has sought to address the "statement" requirement by having the petition signed and thus the statement of unintentional delay made by the Assignee–further, Petitioner has sought to address authority to act issues with the filing of a certificate under 37 C.F.R. §3.73(b), and Petitioner has included a reply.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and those registered to practice *and* all others who

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required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

[5] It is noted that then-Petitioner/Counsel filed an Application Data Sheet (ADS) on 28 January, 2004.

[6] This information comes by way of and a copy of the document is attached to the 6 June, 2006, petition.

make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[7]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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[7] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[8]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[9]

Delays in responding properly raise the question whether delays are unavoidable.[10] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[11]

And the Petitioner must be diligent in attending to the matter.[12] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[13]))

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

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[8] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[9] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[10] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[11] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[12] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[13] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Petitioner appears to have satisfied the requirements of the regulation.

CONCLUSION

Because it appears that Petitioner has satisfied the regulatory requirements, the petition as considered under 37 C.F.R. §1.137(b) is **granted**.

Petitioner is reminded once again to seek immediate resolution as to re-Noticing the Office to correct the mailing address for the instant matter.

The instant application is released and forwarded to Technology Center 3700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[14]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[14] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

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JUL 18 2001

OFFICE OF PETITIONS
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In re Application of
Mark R. Schroeder
Application No. 09/819,040
Filed: April 23, 2001
Attorney Docket No. 0336FV-044008

DECISION GRANTING PETITION

This is a decision on the petition filed May 7, 2001, requesting that a Continued Prosecution Application (CPA) filed April 23, 2001, based on prior application No. 09/589,386 be treated as an application under 37 CFR 1.53(b) and accorded a filing date of April 23, 2001.

A review of the prior application failed to uncover application papers for a CPA on April 23, 2001. Accordingly, petitioner was asked to supply evidence that an application under 37 CFR 1.53(d) was, in fact, filed on April 23, 2001. On July 16, 2001, petitioner submitted, inter alia, a copy of the CPA papers, a copy of the post card indicating receipt in the PTO on April 23, 2001 of a CPA filed pursuant to 37 CFR 1.10, and a copy of Express Mailing Receipt No. EL846806863US, showing a "date in" on April 23, 2001. The same Express Mail number appears on the CPA request and post card receipt.

In view of the above, the evidence is convincing that a CPA based on prior Application No. 09/589,386 was filed on April 23, 2001, and subsequently misplaced in the PTO. However, this is not a proper filing under 37 CFR 1.53(d), since a proper CPA under 37 CFR 1.53(d) must be filed before payment of the issue fee in the prior application. See 37 CFR 1.53(d)(1)(ii)(A). In this case, the issue fee was paid on February 26, 2001, and the prior application issued as US Patent No. 6,225,522 on May 1, 2001.

The present petition requests that the request for a CPA be treated as a divisional application filed under 37 CFR 1.53(b). A copy of a specification drawings and declaration accompanied the petition.

The petition is granted.

The divisional application under 37 CFR 1.53(b) has been assigned application No. 09/819,040. All further correspondence concerning the divisional application filed on April 23, 2001, should be directed to application No. 09/819,040.

The $710.00 CPA filing fee paid in Application No. 09/589,386 has been reapplied to Application No. 09/819,040.

Application No. 09/819,040 is being forwarded to Initial Patent Examination Division for processing as a divisional application under 37 CFR 1.53(b), not as a CPA under 37 CFR 1.53(d),

with a filing date of April 23, 2001, using the copy of the specification, drawings and declaration filed May 7, 2001.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Off.
Washington, D.C.

Paper No. 4

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JAN 2 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Samueli, et al.	:	DECISION ON
Application No. 09/819,049	:	PETITION
Received: January 20, 1998	:	
Title: SYSTEM FOR, AND METHOD OF,	:	
PROCESSING QUADRATURE AMPLITUDE	:	
MODULATED SIGNALS	:	

This is a decision on the petition filed June 5, 2000, and the supplement filed on June 15, 2001, requesting that a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 08/285,504 be treated as an application filed under 37 CFR 1.53(b) and be accorded a filing date of January 20, 1998. The original petition cannot be located. Therefore, this decision is based on the duplicate petition filed on December 1, 2000.

Receipt is acknowledged of a "Second Preliminary Amendment", a request (in duplicate) for a CPA of prior application No. 08/285,504, and what appears to be an incomplete copy of the specification filed in the prior application filed on August 19, 1998.[1]

All of the papers identified above have been assigned application No. 09/819,049 for identification purposes. All future correspondence concerning the continuing application filed on January 20, 1998, should be directed to that application number, <u>not</u> to application No. 08/285,504.

The supplement filed on June 15, 2001, includes a copy of applicants' postcard receipt acknowledging receipt on January 20, 1998, of a "Continued Prosecution Application" and a copy of a transmittal letter requesting the filing of a continuation application of prior application No. 08/285,504. USPTO records

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[1] The copy comprises pages 1-20, 39-51 and two pages of abstract.

also show that a CPA filing fee of $652.00 was paid in prior application No. 08/285,504 on January 20, 1998. The original transmittal letter cannot be located in the file of prior application No. 08/285,504. However, the evidence presented is persuasive that a request for a CPA was filed on January 20, 1998, and subsequently misplaced in the USPTO.

USPTO records also show that the issue fee was paid in the prior application on November 27, 1997. A CPA must be filed before the payment of the issue fee on the prior application. See 37 CFR 1.53(d). Since the issue fee was paid on the prior application before the CPA request was filed and the prior application has now issued as a patent, the CPA request cannot be processed as a proper CPA.

The present petition requests that the CPA request be treated as an application filed under 37 CFR 1.53(b).

A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee; and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed June 15, 2000, is not accompanied by a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration.

Accordingly, the petition is dismissed.

However, this decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior application as originally filed. A copy of the preliminary amendment filed on January 20, 1998, and the power of attorney filed on June 5, 2000, should also be supplied.

The $130.00 petition fee will be charged to deposit account No. 06-2425 in due course, as authorized in the transmittal letter filed on January 20, 1998. USPTO records will also be corrected to show that the $652.00 filing fee paid on January 20, 1998, in application No. 08/285,504, was actually paid in application No. 09/819,049.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. See 37 CFR 1.181(f). This time period is not extendable under 37 CFR 1.136.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231
ATTN: Nancy Johnson

By FAX: (703) 308-6916
Attn: Office of Petitions
Nancy Johnson

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA
ATTN: Nancy Johnson

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

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JUN 2 5 2002

OFFICE OF PETITIONS

In re Application of Samueli, et al. Application No. 09/819,049 Received: January 20, 1998 Title: SYSTEM FOR, AND METHOD OF, PROCESSING QUADRATURE AMPLITUDE MODULATED SIGNALS	: : : : : : :	DECISION GRANTING PETITION

This is a decision on the renewed petition filed March 21, 2002, requesting that a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 08/285,504 be treated as an application filed under 37 CFR 1.53(b) and be accorded a filing date of January 20, 1998.

The initial petition was dismissed in a decision mailed January 28, 2002 on the basis that the petition did not include a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration[1]. It was further requested that petitioner supply on reconsideration a copy of the preliminary amendment filed on January 20, 1998, and the power of attorney filed on June 5, 2000.

On request for reconsideration, petitioner has submitted a copy of the prior complete application as originally filed, including 57 pages of specification, 5 sheets of drawings (Figs. 1, 2A, 2B, 4-9) and the executed declaration. In addition, petitioner submitted a copy of the preliminary amendment filed January 20, 1998.

In view thereof, the petition is **GRANTED**.

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[1] A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee; and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d).

Receipt of the associate power of attorney is acknowledged. However, as "D. Bruce Prout" is not of record in this application, the associate power of attorney cannot now be accepted. It is noted that the copy of power of attorney filed on June 5, 2000, was not included on petition. Accordingly, the file may be missing the appointment of attorney documents appointing "D. Bruce Prout" as principal attorney and thus, authorizing his appointment of "Richard J. Paciulan" as associate attorney. To associate attorney Paciulan, a request by an attorney or agent of record, all of the inventors, or an assignee(s)(of the entire right, title and interest) who has established the right to take action in this application is required.

As the check filed June 5, 2000 is not of record in this application (or application No. 08/285,504), the petition fee is being satisfied by being charged to Deposit Account No. 03-1728, as authorized.

Now that this petition is being granted, if appropriate[2], USPTO records will be corrected to show that the $652.00 filing fee paid on January 20, 1998, in application No. 08/285,504, was actually paid in application No. 09/819,049.

This application is being forwarded to the Office of Initial Patent Examination (OIPE):

- with a filing date of January 20, 1998, using the copies of the originally filed application papers received on petition filed March 21, 2002.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] A further financial review of application No. 08/285,504 is necessary in order to determine if those fees were used to satisfy any fees due in application No. '504, and thus, are not available to be applied to this application.

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Paper No. 4

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JUN 07 2001

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In re Application of
Frank W. Ahern
Application No. 09/130,058
Filed: August 6, 1998
Attorney Docket No. 1 DOS 14

In re Application of
Frank W. Ahern
Application No. 09/819,053
Filed: May 20, 2000
Attorney Docket No. 101950.00027

DECISION GRANTING PETITION

This is a decision on the petition filed February 20, 2001, requesting that an application of FRANK W. AHERN entitled "SYSTEM ENABLING DEVICE COMMUNICATION IN AN EXPANDED COMPUTING DEVICE " (attorney docket No. 101950.00027) improperly filed pursuant to 37 CFR 1.53(d) be accorded a filing date of May 20, 2000 under 37 CFR 1.53(b).

Petitioner alleges that original application papers were filed in the Patent and Trademark Office (PTO) on May 20, 2000. In support, petitioner has supplied a copy of his postcard receipt followed by a copy of the original application papers as shown by counsel's file. The postcard receipt acknowledges the filing on May 20, 2000 of:

1. CPA Application
2. Declaration and Power of Attorney
3. Filing Fee; and
4. Postcard

The papers identified on the postcard receipt cannot be located in the PTO. However, PTO finance records do confirm receipt of CPA filing fees being paid on May 20, 2000 in Application No. 09/130,058.

On May 25, 2001, petitioner filed a copy of a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) of prior application No. 09/130,058, a declaration under 37 CFR 1.63 and a copy of the original specification and drawings from the prior application purportedly filed on May 20, 2000.

The present petition is being construed as a positive affirmation by the registered practitioner that the papers filed in the PTO on May 25, 2001, are true copies of the original application papers shown by counsel's file to have been filed in the PTO on May 20, 2000. Applicants should notify this office if the original papers are subsequently discovered in the PTO so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

Petitioner now indicate that the application was inadvertently filed pursuant to 37 CFR 1.53(d) and requests that the request for a CPA be treated as an application under 37 CFR 1.53(b), and accorded a filing date of May 20, 2000. It is noted that application No. 09/130,058 issued as U.S. Patent No. 6,070,214 on May 30, 2000, as a result of the payment of the issue fee on April 7, 2000.

The petition is GRANTED.

The copy of the request for a CPA application, including the accompanying papers filed May 25, 2001, and the petition filed February 20, 2001, have been assigned application No. 09/819,053. All future correspondence concerning the continuing application filed May 20, 2000 should be directed to application No. 09/819,053. One of the CPA filing fees paid in application No. 09/130,058 on May 20, 2000, will be reapplied to application No. 09/819,053.

Thereafter, application No. 09/130,058 will be returned to the Files Repository.

Application No. 09/819,053 is being forwarded to Initial Patent Examination Division for further processing, with a filing date of May 20, 2000, as an application filed pursuant to 37 CFR 1.53(b), not a CPA under 37 CFR 1.53(d), using the application papers supplied on May 25, 2001.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 4

JC542 U.S. PTO
09/933347
05/20/00

Robert C. Klinger
Jackson Walker, LLP
1435 N. Central Expressway
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Richardson, TX 75080

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In re Application of
Frank W. Ahern
Application No. 09/130,058
Filed: August 6, 1998
Attorney Docket No. 1 DOS 14

In re Application of
Frank W. Ahern
Application No. 09/819,054
Filed: May 20, 2000
Attorney Docket No. 101950.00028

DECISION GRANTING PETITION

This is a decision on the petition filed February 20, 2001, requesting that an application of FRANK W. AHERN entitled "UNIQUE SERIAL PROTOCOL MIMICKING PARALLEL BUS " (attorney docket No. 101950.00028) improperly filed pursuant to 37 CFR 1.53(d) be accorded a filing date of May 20, 2000 under 37 CFR 1.53(b).

Petitioner alleges that original application papers were filed in the Patent and Trademark Office (PTO) on May 20, 2000. In support, petitioner has supplied a copy of his postcard receipt followed by a copy of the original application papers as shown by counsel's file. The postcard receipt acknowledges the filing on May 20, 2000 of:

1. CPA Application
2. Declaration and Power of Attorney
3. Filing Fee; and
4. Postcard

The papers identified on the postcard receipt cannot be located in the PTO. However, PTO finance records do confirm receipt of CPA filing fees being paid on May 20, 2000 in Application No. 09/130,058.

On May 25, 2001, petitioner filed a copy of a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) of prior application No. 09/130,058, a declaration under 37 CFR 1.63 and a copy of the original specification and drawings from the prior application purportedly filed on May 20, 2000.

The present petition is being construed as a positive affirmation by the registered practitioner that the papers filed in the PTO on May 25, 2001, are true copies of the original application papers shown by counsel's file to have been filed in the PTO on May 20, 2000. Applicants should notify this office if the original papers are subsequently discovered in the PTO so that the present duplicate file can be merged with the original papers and any duplicate filing fee refunded.

Petitioner now indicate that the application was inadvertently filed pursuant to 37 CFR 1.53(d) and requests that the request for a CPA be treated as an application under 37 CFR 1.53(b), and accorded a filing date of May 20, 2000. It is noted that application No. 09/130,058 issued as U.S. Patent No. 6,070,214 on May 30, 2000, as a result of the payment of the issue fee on April 7, 2000.

The petition is GRANTED.

The copy of the request for a CPA application, including the accompanying papers filed May 25, 2001, and the petition filed February 20, 2001, have been assigned application No. 09/819,054. All future correspondence concerning the continuing application filed May 20, 2000 should be directed to application No. 09/819,054. One of the CPA filing fees paid in application No. 09/130,058 on May 20, 2000, will be reapplied to application No. 09/819,054.

Thereafter, application No. 09/130,058 will be returned to the Files Repository.

Application No. 09/819,054 is being forwarded to Initial Patent Examination Division for further processing, with a filing date of May 20, 2000, as an application filed pursuant to 37 CFR 1.53(b), not a CPA under 37 CFR 1.53(d), using the application papers supplied on May 25, 2001.

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 05-01

Paper No. 3

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OFFICE OF PETITIONS
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In re Application of :
Hall et al. :
Application No. 09/819,063 : DECISION GRANTING PETITION
Filed: 28 September, 2000 :
Attorney Docket No. 7451.0007-02

This is a decision on the petition filed on 22 February, 2001, requesting that the Continued Prosecution Application (CPA) filed on 28 September, 2000, and based on prior application No. 09/300,778 (issued as U.S. Patent No. 6,138,119 on 24 October, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 28 September, 2000.

The petition **GRANTED**.

A review of the file of prior application No. 09/819,063 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/300,778 was filed in the above-identified patent application on 28 September, 2000. The prior application, however, issued as U.S. Patent No. 6,138,119 on 24 October, 2000, as a result of applicant's payment of the issue fee on 4 August, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/300,778 are no longer available for processing under 37 CFR 1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 28 September, 2000, have been removed from the file of application No. 09/300,778 and have been assigned application No. 09/819,063 for identification purposes. The present petition has also been placed in the file of

Application No. 09/819,063. All further correspondence concerning the application deposited on 28 September, 2000, should be directed to Application No. 09/819,063, not Application No. 09/300,778.

The present petition requests that the CPA request be treated as an application under 37 CFR 1.53(b). A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee, and (2) a true copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed on 28 September, 2000, states that a true copy of the specification and drawings and executed declaration was enclosed therewith.

The application will be processed and examined using the papers filed on 28 September, 2000. The specification, claims, and drawings submitted with the present petition will not be used for processing, but will be retained in the application file.

The application file is being returned to Initial Patent Examination Division for processing with a filing date of 28 September, 2000, using the specification, claims, and drawings filed on 28 September, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 6

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Washington DC 20044-4300

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OCT 0 2 2002

OFFICE OF PETITIONS

In re Application of :
Giesler et al. :
Application No. 09/819,071 : DECISION GRANTING PETITION
Filed: October 9, 2001 :
Attorney Docket No. 658/49678CO :

This is a decision on the petition filed on June 18, 2002, and again on June 27, 2002, requesting that the application be accorded a filing date of October 9, 2001.

The petition is granted.

On October 9, 2001, applicants deposited the above-identified application. The specification consisted of 15 pages of German text. On March 18, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," requiring a complete specification including at least one claim as prescribed by 35 U.S.C. § 111, an executed oath or declaration, and an abstract of the technical disclosure. The Notice further stated that the filing date would be the date of receipt of a complete specification including at least one claim in the United States Patent and Trademark Office. The Notice set forth a two-month period for reply from the mail date of the Notice.

In the present petition, applicants stated that on October 9, 2001, they filed a foreign language application, in which the specification included at least one claim. Applicants further stated that in addition to the foreign language application, applicants filed an English language translation of the foreign specification that also included at least one claim, and the declaration of translator, Christa Schaertel. The present petition is accompanied by a copy of applicants' itemized postcard receipt date stamped October 9, 2001, an executed declaration, a specification in English of 17 pages, including 17 claims, and one page of abstract.

The German language specification filed on October 9, 2001, has been located in the file. Accordingly, the Notice mailed on March 18, 2002, was sent in error and is hereby vacated. No petition fee is necessary. The $130.00 surcharge for late filing of the declaration has been charged to Deposit Account No. 05-1323 as authorized in the petition.

The application file will be forwarded to the Office of Initial Patent Examination for reprocessing using the 15 pages of German text as the specification and claims as the original disclosure, filed on October 9, 2001. The English copy of the specification, claims, and drawings filed with the present petition on June 27, 2002, will be used for examination purposes.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. 10

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OFFICE OF PETITIONS

In re Application of :
Giesler et al. :
Application No. 09/819,071 : DECISION GRANTING PETITION
Filed: October 9, 2001 :
Attorney Docket No. 658/49678CO :

This is a decision on the "Petition To Correct Filing Date," submitted by facsimile transmission on January 23, 2003, requesting that the application be accorded a filing date of October 9, 2001, instead of the current filing date of June 18, 2002.

On October 9, 2001, applicants deposited the above-identified application. The specification consisted of 15 pages of German text. On March 18, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," requiring a complete specification including at least one claim as prescribed by 35 U.S.C. § 111, an executed oath or declaration, and an abstract of the technical disclosure. The Notice further stated that the filing date would be the date of receipt of a complete specification including at least one claim in the United States Patent and Trademark Office. The Notice set forth a two-month period for reply from the mail date of the Notice.

On June 27, 2002, applicants filed a petition under 37 CFR 1.53(e), stating that on October 9, 2001, applicants filed a foreign language application, in which the specification included at least one claim. Applicants further stated that in addition to the foreign language application, applicants filed an English language translation of the foreign specification that also included at least one claim, and the declaration of translator, Christa Schaertel. The petition was accompanied by a copy of applicants' itemized postcard receipt date-stamped October 9, 2001, an executed declaration, a specification in English of 17 pages, including 17 claims, and one page of abstract.

The German language specification filed on October 9, 2001, was located in the file. Accordingly, the petition of June 27, 2002, was granted by the decision of October 2, 2002. The decision stated that the Notice mailed on March 18, 2002, was sent in error and would be vacated.

On December 23, 2002, applicants were mailed a "Withdrawal Of Previously Sent Notice," stating that it came to the Office's attention that the Notice of March 18, 2002, was sent in error. The Office further indicated that applicants should disregard the Notice and that the application was complete and would be processed for examination. However, the official filing receipt indicated an incorrect filing date of June 18, 2002, for the above-identified application.

As previously stated in the decision of October 2, 2002, the above-identified application is entitled to a filing date of October 9, 2001. The record supports applicants' assertion that the United States Patent and Trademark Office erroneously changed the application's filing date to June 18, 2002, instead of the correct filing date of October 9, 2001. The Office sincerely apologizes for the error.

Accordingly, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for reprocessing, correction of the filing date to October 9, 2001, and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 5

ANNE B. KIERNAN
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NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

~~In re~~ Application of
Denwood F. Ross, et al.
Application ~~No.~~ 09/187,579
Filed: November 5, ~~1998~~
Attorney Docket No. VTN-0423

In re Application of
Denwood F. Ross, et al.
Application No. 09/819,074
Filed: June 5, 2001
Attorney Docket No. VTN-423

DECISION GRANTING PETITION

This is a decision on the petition filed October 5, 2001, requesting that a Continued Prosecution Application (CPA) filed June 5, 2001, based on prior application No. 09/187,579 be treated as an application under 37 CFR 1.53(b) and accorded a filing date of June 5, 2001.

A review of the record discloses that a request for a CPA based on prior application No. 09/187,579 was deposited on June 5, 2001. Since the issue fee was paid in the prior application on April 26, 2001, a petition to withdraw the application from issue was also filed on June 5, 2001. However, the petition and the file of the prior application were not received by the appropriate official within sufficient time to avert issuance of the prior application as U.S. Patent No. 6,246,062 on June 12, 2001. Accordingly, the CPA request cannot be processed as a proper CPA under 37 CFR 1.53(d).

The present petition is filed in response to the decision mailed August 2, 2001 in the prior application. Petitioners request that the request for a CPA be treated as a continuation application filed under 37 CFR 1.53(b) and includes a copy of the specification, drawings and signed declaration from the prior application.

The petition is granted. Under the circumstances of this case, no petition fee is required.

The continuation application under 37 CFR 1.53(b) has been assigned Application No. 09/819,074. All further correspondence concerning the continuation application filed on June 5, 2001, should be directed to Application No. 09/819,074.

In view of this decision, the present petition (including the accompanying papers) and the CPA request and IDS filed on June 5, 2001, have been removed from the file of application No. 09/187,579 and placed in the file of application No. 09/819,074. A copy of the CPA request will be retained in the prior application. The basic filing fee of $710.00 paid in Application No. 09/187,579 will be reapplied to the filing fee required in Application No. 09/819,074.

Since the petition under 37 CFR 1.313(c) was timely filed but a decision thereon was not rendered prior to the parent application issuing as a patent, the procedures set forth below should be followed by the examiner.

> If the information disclosure statement (IDS) filed along with or referred to in the petition under 37 CFR 1.313(c) complies with the requirements of 37 CFR 1.97 and 1.98, it will be considered by the examiner in the continuing application filed under 37 CFR 1.53(b).
>
> The examiner should make all applicable prior art rejections in the 37 CFR 1.53(b) application (not just include a statutory double patenting rejection under 35 U.S.C. 101) based on the information cited in the IDS, alone or with other information, including any new art found in updating an old search or performing a new search.
>
> If the examiner determines that the information cited in the IDS, alone or in combination with other information does not raise a question of unpatentability with respect to the claims in the continuing application (which are identical to the claims in the parent patent), then the examiner should make a statutory double patenting rejection under 35 U.S.C. 101. Applicant may then abandon the continuing application.
>
> If the examiner determines that the information cited in the IDS, alone or in combination with other information raises a prima facie case of unpatentability with respect to the claims in the continuing application (which are identical to the claims in the parent patent), then the examiner should make the appropriate prior art rejection along with the statutory double patenting rejection under 35 U.S.C. 101. If prosecution of the continuing application results in an amendment of the claims due to unpatentability, a statutory disclaimer of the unpatentable claims must be filed in the parent patent, and a terminal disclaimer can be filed in the continuing application if the amended claims would have been obvious over any claim of the parent patent so as to permit the continuing application to issue with the amended claims.

Prior Application No. 09/187,579 is being returned to the files repository.

Application No. 09/819,074 is being forwarded to Initial Patent Examination Division (OIPE) for processing as a continuation application under 37 CFR 1.53(b), <u>not as a CPA under 37 CFR 1.53(d)</u>, with a filing date of June 5, 2001, using the copy of the specification, drawings and declaration supplied on October 5, 2001 and an indication on the filewrapper that the $710.00 filing fee was paid on filing

Telephone inquires related to this decision should be directed to the undersigned at (703) 305-9220. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Denwood F. Ross et al :
Application No. 09/819,074 :
Filed: June 5, 2001 :
Attorney Docket No. VTN-423 :

This is a decision on the petition, filed April 29, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 19, 2004 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 2878 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6640514	2003-11-04	09819076	2001-10-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Vincent M DeLuca/	Date (YYYY-MM-DD)	2008-03-05
Name	Vincent M DeLuca	Registration Number	32408

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

In re Patent No. 6640514
Issue Date: November 4,2003
Application No. 09819076
Filed: October 25,2001
Attorney Docket No. 22036/002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 5,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 5,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 3

ALEX CHARTOVE
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P
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OCT 15 2001

OFFICE OF PETITIONS

In re Application of
Dr. David H. McDaniel
Application No. 09/819,082
Filed: February 15, 2001
For: Process for Inhibiting Activity, Reducing Size and Destroying Growth of Sebaceous Gland

DECISION GRANTING PETITION

This is a decision on the petition filed June 4, 2001, requesting that a divisional Continued Prosecution Application (CPA) (identified in the petition by attorney docket No. 509582000210), deposited February 15, 2001, based on prior application No. 09/203,178 be treated as a divisional application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of February 15, 2001.

The application papers filed February 15, 2001, and identified by attorney docket No. 071340.0018, requested treatment as a CONTINUED PROSECUTION APPLICATION (CPA) under 37 CFR 1.53(d) based on prior application No. 09/203,178. The petition filed June 4, 2001, states that the applicant mistakenly requested a filing under 37 CFR 1.53(d), but a filing under 37 CFR 1.53(b) was intended. Accordingly, the applicant requests that the application be treated as a divisional application under 37 CFR 1.53(b).

It is noted that the application papers filed February 15, 2001, included a complete specification and drawings. Therefore, the papers are presently complete for filing date purposes under 37 CFR 1.53(b). The application papers filed February 15, 2001, were filed while the prior application was still pending. The prior application No. 09/203,178 issued as U.S. Patent No. 6,283,956 on September 4, 2001.

Therefore, on petition, the application papers filed on February 15, 2001, will be treated as a divisional application filed under 37 CFR 1.53(b).

The petition is granted.

The 37 CFR 1.53(b) application has been assigned application No. 09/819,082.

A courtesy copy of this decision is being mailed to the address identified in the petition. However, it is noted that the correspondence address for the present application is contained in the application papers filed February 15, 2001. The Customer Number identified in the transmittal letter is not a valid Customer Number. No further communications will be mailed to the address provided in the petition unless a power of attorney/change of correspondence address is filed.

It is noted that an oath or declaration under 37 CFR 1.63 is missing. Applicant is given **TWO MONTHS** from the mailing date of this decision to file an oath or declaration in compliance with 37 CFR 1.63 and the surcharge set forth in 37 CFR 1.16(e) for the late filing of the oath or declaration. Extensions of time under 37 CFR 1.136(a) are available. The response should be directed to the attention of Initial Patent Examination Division. Failure to file a timely response will result in the **abandonment** of the application.

It is noted that the filing fee paid for the instant application was applied in prior application No. 09/203,178. The fee should be applied in application No. 09/819,082.

After mailing of this decision, USPTO records will be corrected to show that the $355.00 filing fee paid on February 15, 2001, was paid in application No. 09/819,082, not in application No. 09/203,178, and for charging the $130.00 petition fee to deposit account No. 03-1952, as authorized in the petition.

The application will then be forwarded to Initial Patent Examination Division for further processing as a divisional application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of February 15, 2001, using the application papers filed on February 15, 2001, and the oath or declaration filed in response to this decision.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

EJ/vb

cc: JONATHAN BOCKMAN
MORRISON & FOERSTER LLP
2000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-1888

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

NOV 29 2005

MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22102

Paper No. 11

In re Application of
MCDANIEL, DAVID
Appl No.: 09/819,082
Filed: February 15, 2001
For: PROCESS FOR INHIBITING ACTIVITY REDUCING SIZE & DESTROYING GROWTH OF SEBACEOUS GLAND
Attorney Docket Number: 509582000210

DECISION GRANTING PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed June 15, 2004 for failure to timely reply to the office mailed December 3, 2003. In view of petitioner's comments in the paper submitted March 21, 2005, the request is treated as a petition to withdraw of the holding of abandonment pursuant to 37 CFR 1.181 based on non-receipt of the office action. No fee is required for this petition.

The petition is granted.

A review of the file history indicates that a Change of Correspondence Address was filed on August 29, 2003, but was not entered until after the Office Action of December 3, 2003 was mailed. Therefore the office action in question was not mailed to the proper address of record. Also, in support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

In view of the above, the Notice of Abandonment mailed June 15, 2004 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and to remail the office action of December 3, 2003. The statutory period that was originally set forth in the office communication will be restarted to run from the mail date of the newly supplied office action.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

ALEX CHARTOVE
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P
1333 NEW HAMPSHIRE AVENUE, N.W., SUITE 400
WASHINGTON, DC 20036

COPY MAILED

OCT 15 2001

OFFICE OF PETITIONS

In re Application of
Dr. David H. McDaniel
Application No. 09/819,083
Filed: February 15, 2001
For: Process for Treatment of Psoriasis

DECISION GRANTING PETITION

This is a decision on the petition filed June 4, 2001, requesting that a divisional Continued Prosecution Application (CPA) (identified in the petition by attorney docket No. 509582000211), deposited February 15, 2001, based on prior application No. 09/203,178 be treated as a divisional application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of February 15, 2001.

The application papers filed February 15, 2001, and identified by attorney docket No. 071340.0019, requested treatment as a CONTINUED PROSECUTION APPLICATION (CPA) under 37 CFR 1.53(d) based on prior application No. 09/203,178. The petition filed June 4, 2001, states that the applicant mistakenly requested a filing under 37 CFR 1.53(d), but a filing under 37 CFR 1.53(b) was intended. Accordingly, the applicant requests that the application be treated as a divisional application under 37 CFR 1.53(b).

It is noted that the application papers filed February 15, 2001, included a complete specification and drawings. Therefore, the papers are presently complete for filing date purposes under 37 CFR 1.53(b). The application papers filed February 15, 2001, were filed while the prior application was still pending. The prior application No. 09/203,178 issued as U.S. Patent No. 6,283,956 on September 4, 2001.

Therefore, on petition, the application papers filed on February 15, 2001, will be treated as a divisional application filed under 37 CFR 1.53(b).

The petition is granted.

The 37 CFR 1.53(b) application has been assigned application No. 09/819,083.

A courtesy copy of this decision is being mailed to the address identified in the petition. However, it is noted that the correspondence address for the present application is contained in the application papers filed February 15, 2001. The Customer Number identified in the transmittal letter is not a valid Customer Number. No further communications will be mailed to the address provided in the petition unless a power of attorney/change of correspondence address is filed.

It is noted that an oath or declaration under 37 CFR 1.63 is missing. Applicant is given **TWO MONTHS** from the mailing date of this decision to file an oath or declaration in compliance with 37 CFR 1.63 and the surcharge set forth in 37 CFR 1.16(e) for the late filing of the oath or declaration. Extensions of time under 37 CFR 1.136(a) are available. The response should be directed to the attention of Initial Patent Examination Division. Failure to file a timely response will result in the **abandonment** of the application.

It is noted that the filing fee paid for the instant application was applied in prior application No. 09/203,178. The fee should be applied in application No. 09/819,083.

After mailing of this decision, USPTO records will be corrected to show that the $355.00 filing fee paid on February 15, 2001, was paid in application No. 09/819,083, not in application No. 09/203,178, and for charging the $130.00 petition fee to deposit account No. 03-1952, as authorized in the petition.

The application will then be forwarded to Initial Patent Examination Division for further processing as a divisional application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of February 15, 2001, using the application papers filed on February 15, 2001, and the oath or declaration filed in response to this decision.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

EJ/vb

cc: JONATHAN BOCKMAN
MORRISON & FOERSTER LLP
2000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-1888

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DEC 17 2001
PATENT & TRADEMARK OFFICE

Paper No. 3

ALEX CHARTOVE
AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P
1333 NEW HAMPSHIRE AVENUE, N.W., SUITE 400
WASHINGTON, DC 20036

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OCT 15 2001
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COPY OF PAPERS
ORIGINALLY FILED

In re Application of
Dr. David H. McDaniel
Application No. 09/819,083
Filed: February 15, 2001
For: Process for Treatment of Psoriasis

DECISION GRANTING PETITION

RECEIVED
DEC 19 2001
OFFICE OF PETITIONS

This is a decision on the petition filed June 4, 2001, requesting that a divisional Continued Prosecution Application (CPA) (identified in the petition by attorney docket No. 509582000211), deposited February 15, 2001, based on prior application No. 09/203,178 be treated as a divisional application under 37 CFR 1.53(b), rather than under 37 CFR 1.53(d), and be accorded a filing date of February 15, 2001.

The application papers filed February 15, 2001, and identified by attorney docket No. 071340.0019, requested treatment as a CONTINUED PROSECUTION APPLICATION (CPA) under 37 CFR 1.53(d) based on prior application No. 09/203,178. The petition filed June 4, 2001, states that the applicant mistakenly requested a filing under 37 CFR 1.53(d), but a filing under 37 CFR 1.53(b) was intended. Accordingly, the applicant requests that the application be treated as a divisional application under 37 CFR 1.53(b).

It is noted that the application papers filed February 15, 2001, included a complete specification and drawings. Therefore, the papers are presently complete for filing date purposes under 37 CFR 1.53(b). The application papers filed February 15, 2001, were filed while the prior application was still pending. The prior application No. 09/203,178 issued as U.S. Patent No. 6,283,956 on September 4, 2001.

Therefore, on petition, the application papers filed on February 15, 2001, will be treated as a divisional application filed under 37 CFR 1.53(b).

The petition is granted.

The 37 CFR 1.53(b) application has been assigned application No. 09/819,083.

DOCKETED
Oath / Declaration
12/15/01
5/15/02 LD

A courtesy copy of this decision is being mailed to the address identified in the petition. However, it is noted that the correspondence address for the present application is contained in the application papers filed February 15, 2001. The Customer Number identified in the transmittal letter is not a valid Customer Number. No further communications will be mailed to the address provided in the petition unless a power of attorney/change of correspondence address is filed.

It is noted that an oath or declaration under 37 CFR 1.63 is missing. Applicant is given **TWO MONTHS** from the mailing date of this decision to file an oath or declaration in compliance with 37 CFR 1.63 and the surcharge set forth in 37 CFR 1.16(e) for the late filing of the oath or declaration. Extensions of time under 37 CFR 1.136(a) are available. The response should be directed to the attention of Initial Patent Examination Division. Failure to file a timely response will result in the **abandonment** of the application.

It is noted that the filing fee paid for the instant application was applied in prior application No. 09/203,178. The fee should be applied in application No. 09/819,083.

After mailing of this decision, USPTO records will be corrected to show that the $355.00 filing fee paid on February 15, 2001, was paid in application No. 09/819,083, <u>not in application No. 09/203,178</u>, and for charging the $130.00 petition fee to deposit account No. 03-1952, as authorized in the petition.

The application will then be forwarded to Initial Patent Examination Division for further processing as a divisional application filed under 37 CFR 1.53(b), <u>not under 37 CFR 1.53(d)</u>, with a filing date of February 15, 2001, using the application papers filed on February 15, 2001, and the oath or declaration filed in response to this decision.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-5586.

Eugenia A. Jones

Eugenia A. Jones
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

EJ/vb

cc: JONATHAN BOCKMAN
MORRISON & FOERSTER LLP
2000 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-1888

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NELSON MULLINS RILEY & SCARBOROUGH LLP
IP DEPARTMENT
100 NORTH TRYON STREET
42ND FLOOR
CHARLOTTE NC 28202-4000

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APR 02 2010
OFFICE OF PETITIONS

In re Application of	:	
David H. McDaniel	:	
Application No. 09/819,083	:	DECISION GRANTING PETITION
Filed: February 15, 2001	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 34604-09011	:	

This is a decision on the petition under 37 CFR 1.313(c)(3), filed April 2, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

ACTEL CORPORATION
ATTN: LEGAL DEPARTMENT
955 EAST ARQUES AVENUE
SUNNYVALE, CA 94086

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OCT 0 2 2001

OFFICE OF PETITIONS

In re Application of
Samuel W. Beal
Application No. 09/819,084
Filed: Deposited September 25, 2000
Attorney Docket No. ACT-290

ON PETITION

This is a decision on petition under 37 CFR 1.10 (e), filed August 6, 2000, requesting that the above-identified application be accorded a filing date of September 25, 2000.

The petition is **DISMISSED**.

Any request for reconsideration of this decision dismissing the petitions must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10 (e). This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Petitioner alleges that a utility application was deposited in Express Mail service on September 25, 2000. In support thereof, the petition is accompanied by a copy of the Express Mail receipt No. EK528152472US showing a "date in" of September 25, 2000, and copies of the Utility Patent Application Transmittal and postcard listing the aforementioned Express Mail Number.

The present application was not accorded a filing date and serial number because it was never received by the Office. Pursuant to 37 CFR 1.10 (e), any person mailing correspondence addressed, as set out in 37 CFR 1.1 (a), to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in" on the "Express Mail" mailing label or other official notation entered by USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the

"Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day: and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The instant petition does not satisfy all the requirements of elements (3) and (4) above. Although the petition includes copies of the originally submitted "return receipt postcard" and the "Express Mail" mailing label, showing a "date in" of September 25, 2000, it does not include a copy of the originally deposited papers that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, as required by element (3) of 37 CFR 1.10 (e); i.e, a copy of the instant application, including 29 pages of specification and 4 pages of drawing sheets, along with the oath or declaration, was not submitted with the petition. The petition also lacks the required statement, as set forth in element (4) of 37 CFR 1.10 (e), which establishes, to the satisfaction of the Commissioner, that the original deposit of the correspondence and that copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

All future correspondence concerning this application should identify it as US Application No. **09/819,084**.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By Hand: Crystal Plaza Four
Suite 3C23
2201 S. Clark Place
Arlington, Virginia 22201

Telephone inquiries concerning this matter may be directed to Michael Sherry at (703) 306-0028.

Patricia Faison-Ball
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

NICOLE E. COPPES-GATHY
SIERRA PATENT GROUP, LTD.
P.O. BOX 6149
STATELINE, NV 89449

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AUG 29 2002

OFFICE OF PETITIONS

In re Application of	:
Samuel W. Beal et al.	:
Application No. 09/819,084	: DECISION GRANTING PETITION
Filed: September 25, 2000	:
Attorney Docket No. ACT-290	:

This is a decision on the renewed petition filed March 4, 2002[1] under 37 CFR 1.10(e)[2], requesting that the above-identified application be accorded a filing date of September 25, 2000.

Petitioner alleges that the application was deposited in "Express Mail" service with the U.S. Postal Service on September 25, 2000. In support, petitioner provided a copy of the Express Mail label, receipt No. EK528152472US, showing a Date-in and an official USPS postmark date of September 25, 2000. The same Express Mail receipt number

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[1]A petition under 1.10 (e) was filed August 6, 2001 and dismissed October 2, 2001 for failure to comply with the requirements of 37 CFR 1.10 (e).

[2]37 CFR 1.10(e) provides that:

Any person mailing correspondence properly addressed to the Office with sufficient postage utilizing "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

was referred to on the itemized Utility Patent Application Transmittal sheet and the postcard receipt although the post card receipt is not date stamped, submitted with the present petition as proof of deposit on September 25, 2000. Additionally, petitioner has provided a copy of the 29 pages of specification, 4 sheets of drawings, and a 3 page declaration with a notation that the papers identified above are true copies of the originally mailed correspondence. Petitioner requests that the application be accorded a filing date of September 25, 2000.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label.[3] That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the USPS on September 25, 2000.

In accepting this petition, the Office is construing the remarks made by counsel as a declaration that the application papers submitted with the present petition are true copies of the documents that were originally mailed, and that the documents were originally deposited on the date indicated on the Express Mail mailing label. Petitioners **must** notify the Office if this is an incorrect interpretation.

The application will be processed and examined using the application papers supplied on March 4, 2002.

In view of the above, the petition is granted. The petition fee paid with the August 6, 2001 and the fee paid with the present petiton will be credited to petitioner's deposit account no. 50-0612.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of September 25, 2000, using the application papers supplied on March 4, 2002.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[3] MPEP 513.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 5

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JUL 23 2001

OFFICE OF PETITIONS
A/C PATENTS

DAVID R MARSH
ARNOLD & PORTER
555 12TH STREET NW
WASHINGTON DC 20004

In re Application of
Cao, et al.
Application No. 09/819,091
Filed: February 16, 2000
Attorney Docket No. 04983.0210.US/00/38-21

: DECISION ON PETITION
: AND
: NOTICE OF INFORMAL
APPLICATION

This is a decision on the petition filed July 13, 2001, that the above-identified application papers be accorded a filing date of February 16, 2000.

The petition is granted.

The application, however is informal since it does not comply with the regulations for the reasons noted below. Applicant is given **TWO MONTHS** FROM THE DATE OF THIS NOTICE WITHIN WHICH TO CORRECT THE INFORMALITIES INDICATED BELOW. THE REQUIRED ITEMS MUST BE TIMELY SUBMITTED TO AVOID ABANDONMENT. EXTENSIONS OF TIME UNDER 37 CFR 1.136(a) ARE PERMITTED.

In support of the petition, petitioner includes a copy of a postcard receipt itemized with respect to the instant application papers and bearing the USPTO date stamp of February 16, 2000. The receipt establishes that 10 boxes consisting of 2,370 pages of description, 1 page of 7 claims, 1 one page abstract, 30, 213 pages of a sequence listing, and a CD-Rom containing the sequence listing were among the instant application papers received at the USPTO, and subsequently misplaced. Accordingly, the instant resubmitted papers are entitled to an application number and a filing date of February 16, 2000.

However, petitioner should note that the contents of the two CD-R's supplied with the instant petition, on which is contained Table 1, do not comply with 37 CFR §§ 1.52(e)(3)(i) and 1.58, in that both Tables must be incompliance with ASCII. A review of the instant CD-R files corresponding to Table 1 reveals that Table 1 has been submitted thereon containing horizontal and vertical lines which encompass and separate the textual data, which simply put, means that Table 1 has not been submitted as an ASCII "flat file." Petitioner should compare instant Table 2 as submitted on the

CD-Rs, which is in compliance with the rules, and employ that same format for the resubmitted Table 1. The new CD-R's must be submitted in duplicate. See 37 CFR 1.52(e)(4).

The $130 petition fee has been refunded as unnecessary

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-1820.

Brian Hearn

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DAVID R. MARSH
ARNOLD & PORTER
555 12TH STREET NW
WASHINGTON DC 20004

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MAY 3 1 2002

OFFICE OF PETITIONS

In re Application of :
Cao, et al :
Application No. 09/819,091 : LETTER
Filed: February 16, 2000 :
Attorney Docket No. 16517.124 :

This is in response to the Request for Refund filed March 29, 2002.

The request for refund is granted. Therefore, a total of $870.00 is being refunded to Deposit Account No. 50-1824 as requested.

Any questions concerning this matter may be directed to the undersigned at (703) 305-8859.

The application file is being forwarded to Technology Center Art Unit 1649 for processing the request for express abandonment.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7-21-01

2 Serial/Patent # 09819091

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	4	7-13-01	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [x] Credit Deposit A/C #:

9 5 0 -- 1 8 2 4

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [x] No Fee Due (Explanation):

PTO mishandling of originally filed appl papers

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: J Hicks TITLE: Pets Exp

SIGNATURE: J Hicks PHONE: 305-8680

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Diana Chase DATE: 7/23/01

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

INSTRUCTIONS FOR USING REQUEST FOR PATENT FEE REFUND FORMS [FORM NUMBER PTO-1577]

Fill out the form completely, and print or type all information.

1. **DATE OF REQUEST**: Enter the date you fill out the form.

2. **SERIAL/PATENT #**: Enter the Serial or Patent Number.

3. Enter a check mark or an X in the box preceding the type of fee to be refunded. If the fee you are refunding is not listed, place a check mark or an X in the box preceding "**Other** _____" and print or type the fee type on the following blank line.

4. **PAPER NUMBER**: Enter the **PAPER NUMBER** of the document for which a refund is requested. [**PAPER NUMBER** refers to the sequential number (on the outside of the official file wrapper) assigned to the document. If the document has no number assigned to it, you may leave this box blank.]

5. **DATE FILED**: Enter the Mailroom Date of the document for which a refund is requested.

6. **AMOUNT**: Enter the dollar amount of the refund.

7. **TOTAL AMOUNT OF REFUND**: Add the dollar amounts in the column labeled **AMOUNT** and enter the total in the box.

8. **TO BE REFUNDED BY:** Enter a check mark or an X in the box preceding **TREASURY CHECK** OR **CREDIT DEPOSIT A/C #** to indicate how the refund is to be made. Requests to credit a Deposit Account must be accompanied by formal authorization to credit the account. Formal authorization to credit a deposit account consists of a copy of the signed statement by the owner of the Deposit Account granting the Commissioner permission to credit their account, **stamped with the FEE ACCOUNTABILITY STAMP with the amount of the refund circled.**

9. **DEPOSIT ACCOUNT NUMBER**: If refund is by credit to a Deposit Account, enter the Deposit Account Number.

10. **REASON**: Enter a check mark or an X in the box preceding the reason the refund is being requested. If there is no fee due, enter the reason on the 3 blank lines provided.

11. **REFUND REQUESTED BY**: Only PTO personnel formally authorized to request refunds should enter their **NAME**, **TITLE**, **PHONE NUMBER**, **OFFICE** and **SIGNATURE** on these blanks. Supervisors shall provide the Office of Finance with an advance list of personnel authorized to sign this form.

COPIES:	**WHITE:**	*Attach to the official file.*
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Office of Finance
Refund Branch
Crystal Park One, Room 802B

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 7-21-01

2 Serial/Patent # 09819091

3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
✓	Petition	4	7-13-01	$ 130
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 130

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [✓] Credit Deposit A/C #:

9 50--1824

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [✓] No Fee Due (Explanation):

Pto mishandling of originally filed appl papers

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: F Hicks TITLE: Pets Exp

SIGNATURE: F Hicks PHONE: 305-8680

OFFICE: 4700

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: Liana Chase DATE: 7/23/01

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

FORM PTO 1577
(01/90)

Office of Finance
Refund Branch
Crystal Park One, Room 802B

INSTRUCTIONS FOR USING REQUEST FOR PATENT FEE REFUND FORMS [FORM NUMBER PTO-1577]

Fill out the form completely, and print or type all information.

1. **DATE OF REQUEST**: Enter the date you fill out the form.

2. **SERIAL/PATENT #**: Enter the Serial or Patent Number.

3. Enter a check mark or an X in the box preceding the type of fee to be refunded. If the fee you are refunding is not listed, place a check mark or an X in the box preceding "**Other** _____" and print or type the fee type on the following blank line.

4. **PAPER NUMBER**: Enter the **PAPER NUMBER** of the document for which a refund is requested. [**PAPER NUMBER** refers to the sequential number (on the outside of the official file wrapper) assigned to the document. If the document has no number assigned to it, you may leave this box blank.]

5. **DATE FILED**: Enter the Mailroom Date of the document for which a refund is requested.

6. **AMOUNT**: Enter the dollar amount of the refund.

7. **TOTAL AMOUNT OF REFUND**: Add the dollar amounts in the column labeled **AMOUNT** and enter the total in the box.

8. **TO BE REFUNDED BY:** Enter a check mark or an X in the box preceding **TREASURY CHECK** OR **CREDIT DEPOSIT A/C #** to indicate how the refund is to be made. Requests to credit a Deposit Account must be accompanied by formal authorization to credit the account. Formal authorization to credit a deposit account consists of a copy of the signed statement by the owner of the Deposit Account granting the Commissioner permission to credit their account, **stamped with the FEE ACCOUNTABILITY STAMP with the amount of the refund circled.**

9. **DEPOSIT ACCOUNT NUMBER**: If refund is by credit to a Deposit Account, enter the Deposit Account Number.

10. **REASON**: Enter a check mark or an X in the box preceding the reason the refund is being requested. If there is no fee due, enter the reason on the 3 blank lines provided.

11. **REFUND REQUESTED BY**: Only PTO personnel formally authorized to request refunds should enter their **NAME**, **TITLE**, **PHONE NUMBER**, **OFFICE** and **SIGNATURE** on these blanks. Supervisors shall provide the Office of Finance with an advance list of personnel authorized to sign this form.

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Paper No. 4

TIMOTHY E. NEWHOLM
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 EAST WISCONSIN AVENUE, SUITE 1030
MILWAUKE, WI 53202

COPY MAILED

AUG 2 1 2001

OFFICE OF PETITIONS

In re Application of	:
Christopher Weaver	:
Application No. 09/819,092	: DECISION DISMISSING
Deposited: 6 April, 2000	: PETITION
Attorney Docket No. 13763	:

This is a decision on the petition filed on 27 June, 2001, requesting that the Continued Prosecution Application (CPA) filed on 6 April, 2000, and based on prior application No. 09/150,632 (issued as U.S. Patent No. 6,062,092 on 16 May, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 6 April, 2000.

The petition **DISMISSED**.

A review of the file of prior application No. 09/150,632 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/150,632 was filed in the above-identified patent application on 6 April, 2000. The prior application, however, issued as U.S. Patent No. 6,062,092 on 16 May, 2000, as a result of applicant's payment of the issue fee on 10 April, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/150,632 are no longer available for processing under 37 CFR 1.53(d).

In view of the decision and improper CPA request, the CPA request and other papers filed on 6 April, 2000, have been removed from the file of application No. 09/150,632 and have been assigned application No. 09/819,092 for identification purposes. The present petition has also been placed in the file of Application No. 09/819,092. All further correspondence concerning the application deposited on 6 April, 2000, should be directed to Application No. 09/819,092, <u>not Application No. 09/150,632.</u>

The present petition requests that the CPA request be treated as an application under 37 CFR 1.53(b). A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the $130.00 petition fee, and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed on 27 June, 2001, is not accompanied by a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration.

Accordingly, the petition is dismissed.

However, this decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior application as originally filed.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Receipt of the revocation and power of attorney and change of correspondence address filed with the present petition is acknowledged. Correspondence will be mailed to the address listed therein. It is noted that the Registration Numbers listed for attorneys Peter C. Stromma and Andrew S. McConnell in the power of attorney are incorrect. These attorneys have been entered in Office records as empowered in this application using the correct Registration Numbers.

---

[1] See 37 CFR 1.181(f).

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood at (703)308-6918.

for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/819,092	04/06/2000	CHRISTOPHER WEAVER	13763

THEODORE J. BIELEN, JR.
BIELEN PETERSON & LAMPE
1990 N. CALIFORNIA BLVD
SUITE 720
WALNUT CREEK, CA 94596

DATE MAILED: AUG 21 2001

This is in response to the Power of Attorney filed 06/27/2001.

☒ 1. The power of Attorney to you in this application **has been revoked** by the applicant. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

☐ 2. The power of attorney to you in this application **has been revoked** by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record. (37 CFR 1.33)

☐ 3. The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33 1. The power of Attorney to you in this application **has been revoked** by the applicant. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

☒ 4. The power of attorney in this application **is accepted**. Correspondence in this application will be mailed to the below-noted address as provided by 37 CFR 1.33.

☐ 5. The Power of Attorney in this application **is not accepted** for the reason(s) checked below:

- ☐ a. The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73 (b) has not been received.
- ☐ b. The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- ☐ c. The inventor(s) is without authority to appoint attorneys since the assignee has intervened as provided by 37 CFR 3.71.
- ☐ d. The signature of _____, a co-inventor in this application, has been omitted. The Power of Attorney will be entered upon receipt of confirmation signed by said co-inventor.
- ☐ e. The person(s) appointed in the Power of Attorney is not registered to practice before the U.S. Patent & Trademark Office.
- ☐ f. The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.

Office of Petitions (703) 305-9282

TIMOTHY E. NEWHOLM
BOYLE FREDERICKSON NEWHOLM STEIN & GRATZ S.C.
250 EAST WISCONSIN AVE, SUITE 1030
MILWAUKEE, WI 53202

RETAIN THIS COPY IN THE APPLICATION FILE

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WASHINGTON, D.C. 20231
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DW 03-03

Paper No. 6

TIMOTHY E. NEWHOLM
BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 EAST WISCONSIN AVENUE, SUITE 1030
MILWAUKE, WI 53202

COPY MAILED

MAR 2 4 2003

OFFICE OF PETITIONS

In re Application of	:
Christopher Weaver	:
Application No. 09/819,092	: DECISION GRANTING
Filed: 6 April, 2000	: PETITION
Attorney Docket No. 13763	:

This is a decision on the renewed petition filed on 17 September, 2001, requesting that the Continued Prosecution Application (CPA) filed on 6 April, 2000, and based on prior application No. 09/150,632 (issued as U.S. Patent No. 6,062,092 on 16 May, 2000) be treated as a continuation application under 37 CFR 1.53(b), rather than 37 CFR 1.53(d), and be accorded a filing date of 6 April, 2000.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is **GRANTED**.

A review of the file of prior application No. 09/150,632 reveals that a request for a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 09/150,632 was filed in the above-identified patent application on 6 April, 2000. The prior application, however, issued as U.S. Patent No. 6,062,092 on 16 May, 2000, as a result of applicant's payment of the issue fee on 10 April, 2000. Since the prior application has issued as a patent, the original application papers present in the file of Application No. 09/150,632 are no longer available for processing under 37 CFR 1.53(d). In view of the decision and improper CPA request, the CPA request and other papers filed on 6 April, 2000, have been removed from the file of application No. 09/150,632 and have been assigned application No. 09/819,092 for identification purposes. The petition filed on 27 June, 2001, was dismissed on 21 August, 2001, however, because petitioner had not provided a copy of the complete prior application as originally filed.

As petitioner has filed, with the present renewed petition, a complete copy of the prior application as filed, the petition is granted.

The application is being forwarded to the Office of Initial Patent Examination for further processing as a continuation application filed under 37 CFR 1.53(b), with a filing date of 6 April, 2000, using the specification, drawings, and the declaration supplied on 17 September, 2001.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (703)308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAR 18 2004

BRET E. FIELD
BOZICEVIC, FIELD & FRANCIS, LLP
200 MIDDLEFIELD ROAD, SUITE 200
MENLO PARK, CA 94025

In re Application of	:
Richard L. Weiner et al	:
Serial No.: 09/819,094	: STATUS LETTER
Filed: March 27, 2001	:
Attorney Docket No.: UCSF-264CON	:

This is in response to applicants' attorneys' request, filed February 27, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No. 4

DENNISON MESEROLE POLLACK AND SCHEINER
SUITE 612
1745 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

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SEP 1 1 2001

OFFICE OF PETITIONS

In re Application of
Hollitt et al.
Application No. 08/935,108
Filed: September 29, 1997
Attorney Docket No. 94150CONT

In re Application of
Hollitt et al.
Application No. 09/819,095
Filed: April 26, 2001
For: UPGRADING TITANIFEROUS MATERIALS

DECISION GRANTING PETITION

This is a decision on petition under 37 CFR § 1.53(e) filed June 27, 2001, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of April 26, 2001.

On October 26, 2000, a final Office action was mailed in application No. 08/935,108, which set a three (3) month shortened statutory period for reply. In response, a petition for a three (3) month extension of time and a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 08/935,108 were deposited on April 26, 2001. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1] Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

[1] An earlier CPA was filed in application No. 08/935,108 on October 18, 2000. Thus, 37 CFR 1.53(d)(1)(i) does not permit the filing of a further CPA.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

On May 10, 2001, a Notice of Improper Request For Continued Examination (RCE) was mailed, stating that the RCE was improper because the RCE was not accompanied by a submission as required by 37 CFR § 1.114. The Notice further stated that since the application was not under appeal, the time period set forth in the final Office action continued to run from the mailing date of the action. Because applicants did not submit a submission with the RCE, the application became abandoned on April 27, 2001. A Notice of Abandonment was mailed on May 17, 2001.

On June 27, 2001, applicants filed the present petition under 37 CFR § 1.53(e). Applicants indicated that they did not want the request for a CPA to be treated as a request for continued examination under 37 CFR § 1.114. Rather, applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). With the present petition, applicants submitted a complete copy of the prior application as originally filed, a copy of all amendments entered in the prior application, and a copy of the executed declaration previously filed.

The petition is granted.

The application under 37 CFR 1.53(b) filed on April 26, 2001, has been assigned application No. 09/819,095. The CPA request, the present petition, the copy of the application as originally filed, the copy of all amendments entered in the prior application, and a copy of the executed declaration have been removed from the file of application No. 08/935,108 and have been placed in application No. 09/819,095. A copy of the CPA request and the present petition will be retained in application No. 08/935,108 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 09/819,095, not application No. 08/935,108.

The Office finance records will be corrected to show that the $710.00 filing fee and the additional claim fees totaling $36.00, paid on April 26, 2001, were paid in application No. 09/819,095, not in application No. 08/935,108.

Application No. 08/935,108 will be forwarded to Files Repository.

Application No. 09/819,095 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of April 26, 2001, using the copy of the original application papers submitted on June 27, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina T. Tartera at (703)306-5589.

Eugenia A. Jones

Eugenia A. Jones
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS
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In re Application of
Douglas et al.
Application No. 09/051,939
Filed: October 16, 1998
Attorney Docket No. 11375

In re Application of
Douglas et al.
Application No. 09/819,097
Filed: March 5, 2001
For: Cytokines and Their Use in Treatment and/or Prophylaxis of Breast Cancer

DECISION GRANTING PETITION

This is a decision on petition under 37 CFR § 1.53(e) filed May 23, 2001, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of March 5, 2001.

On September 5, 2000, a nonfinal Office action was mailed in application No. 09/051,939, which set a three (3) month shortened statutory period for reply. In response, a petition for a three (3) month extension of time and a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 09/051,939 were deposited on March 5, 2001. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1] Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

[1] An earlier CPA was filed in application No. 09/051,939 on June 22, 2000. Thus, 37 CFR 1.53(d)(1)(i) does not permit the filing of a further CPA.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

On March 22, 2001, a Notice of Improper Request For Continued Examination (RCE) was mailed, stating that the RCE was improper because continued examination under 37 CFR § 1.114 does not apply to an application unless prosecution in the application is closed. The Notice further indicated that if the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of the action. Because applicants did not submit a reply to the nonfinal Office action with the RCE, the application became abandoned on March 6, 2001. A Notice of Abandonment was mailed on May 21, 2001.

On May 23, 2001, applicants filed the present petition under 37 CFR § 1.53(e). Applicants indicated that they did not want the request for a CPA to be treated as a request for continued examination under 37 CFR § 1.114. Rather, applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). With the present petition, applicants submitted a complete copy of the prior application as originally filed, a copy of an executed declaration, and a preliminary amendment.

The petition is granted.

The application under 37 CFR 1.53(b) filed on March 5, 2001, has been assigned application No. 09/819,097. The CPA request, the present petition, the copy of the application as originally filed, the executed declaration, and the preliminary amendment have been removed from the file of application No. 09/051,939 and have been placed in application No. 09/819,097. A copy of the CPA request and the present petition will be retained in application No. 09/051,939 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 09/819,097, not application No. 09/051,939.

The Office finance records will be corrected to show that the $710.00 filing fee and the additional claim fees totaling $522.00, paid on March 5, 2001, were paid in application No. 09/819,097, not in application No. 09/051,939. The $130.00

petition fee and the $130.00 fee for expedited treatment of the petition will be charged to counsel's Deposit Account No. 19-1013, as authorized in the petition.

Application No. 09/051,939 will be forwarded to Files Repository.

Application No. 09/819,097 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of March 5, 2001, using the copy of the original application papers submitted on May 23, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina T. Tartera at (703)306-5589.

Eugenia A. Jones

Eugenia A. Jones
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

DEANN F. SMITH
LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

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OFFICE OF PETITIONS

In re Application of
Kaufman et al.
Application No. 08/980,038
Filed: November 26, 1997
Attorney Docket No. 2115001184US

In re Application of
Kaufman et al.
Application No. 09/819,098
Filed: April 11, 2001
Attorney Docket No. UMV-1184CPCPA2

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR § 1.53(e) filed May 11, 2001, requesting that an improper Continued Prosecution Application (CPA) under 37 CFR § 1.53(d) be treated as an application under 37 CFR § 1.53(b) and be accorded a filing date of April 11, 2001.

On October 11, 2000, a final Office action was mailed in application No. 08/980,038, which set a three (3) month shortened statutory period for reply. In response, a petition for a three (3) month extension of time and a request for a CPA under 37 CFR § 1.53(d) based on prior application No. 08/980,038 were deposited on April 11, 2001. However, CPA practice no longer applies to applications, other than design applications, if the prior application was filed on or after May 29, 2000.[1] Accordingly, the CPA request was improper because the prior application was filed on or after May 29, 2000.

[1] An earlier CPA was filed in application No. 08/980,038 on July 20, 2000. Thus, 37 CFR 1.53(d)(1)(i) does not permit the filing of a further CPA.

In the event that an applicant files a request for a CPA of a utility or plant application that was filed on or after May 29, 2000 (to which CPA practice no longer applies), the Office will automatically treat the improper CPA as a request for continued examination of the prior application (identified in the request for CPA) under new 37 CFR § 1.114.

The Office treated the CPA request as a request for continued examination (RCE). However, because the RCE was not accompanied by a submission it did not meet the requirements of 37 CFR § 1.114. Therefore, because applicants did not provide a reply to the final Office action with the RCE, the application became abandoned on April 12, 2001.

On May 11, 2001, applicants filed the present petition under 37 CFR § 1.53(e). Applicants stated that after receiving the final Office action of October 11, 2000, applicants intended to file a continuation application of prior application No. 08/980,038, but inadvertently filed a CPA. Applicants requested that the improper CPA be converted to an application under 37 CFR § 1.53(b). Applicants submitted, inter alia, a complete copy of the prior application papers as originally filed, copies of amendments, two declarations and a power of attorney previously filed in application No. 08/980,038, and a supplemental information disclosure statement (IDS).

The petition is granted.

The application under 37 CFR 1.53(b) filed on April 11, 2001, has been assigned application No. 09/819,098. The CPA request, the present petition, the copy of the application papers as originally filed, copies of amendments, two declarations and a power of attorney, and the supplemental IDS have been removed from the file of application No. 08/980,038 and have been placed in application No. 09/819,098. A copy of the CPA request and the present petition will be retained in application No. 08/980,038 to complete the record therein. All further correspondence concerning the application under 37 CFR 1.53(b) should be directed to application No. 09/819,098, not application No. 08/980,038.

The Office finance records will be corrected to show that the $355.00 filing fee, excess claim fees totaling $404.00, the $180.00 fee for submission of an IDS, and the $130.00 petition fee were paid in application No. 09/819,098, not in application No. 08/980,038.

Application No. 08/980,038 will be returned to Technology Center 1600 for further processing as an application abandoned for failure to respond to the final Office action mailed October 11, 2000.

Application No. 09/819,098 will be forwarded to the Office of Initial Patent Examination for further processing as an application filed under 37 CFR 1.53(b), not under 37 CFR 1.53(d), with a filing date of April 11, 2001, using the copy of the original application papers submitted on May 11, 2001.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Christina T. Tartera at (703) 306-5589.

Eugenia A. Jones

Eugenia A. Jones
Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

CTT

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DIW 09-02

Paper No. 9

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON MA 02109

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SEP 27 2002
OFFICE OF PETITIONS

In re Application of	:	
J. Don Chen	:	
Application No. 09/819,104	:	ON PETITION
Filed: 27 March, 2001	:	
Attorney Docket No. UMG-030	:	

This a decision on the petition, filed on 14 August, 2002, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **granted**.

The application became abandoned on 15 December, 2001, for failure to timely submit substitute drawings in compliance with 37 CFR 1.84 and a substitute CRF of the "Sequence Listing" as required by 37 CFR 1.821(e), (f), (g), 1.825(b), or (d) as

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

required by the Notice to File Missing Parts of Nonprovisional Application filed on 14 May, 2001,[2] which set a two (2) month period for reply. A five (5) month extension of the time for reply in accordance with 37 CFR 1.136 was obtained. A Notice of Incomplete Reply was mailed on 13 March, 2002, informing applicants that drawings and Sequence Listing were required. Notice of Abandonment was mailed on 18 June, 2002.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2]Although the file copy of the Notice to File Missing Parts of Nonprovisional Application shows a mailing date of 11 May, 2001, the copy of the Notice returned by applicants shows a mailing date of 14 May, 2001. The Office is therefore construing the mailing date of the Notice as 14 May, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUN MICROSYSTEMS, INC.
c/o Dorsey & Whitney LLP
370 SEVENTEENTH ST.
SUITE 4700
DENVER CO 80202

MAILED

FEB 0 9 2009

OFFICE OF PETITIONS

In re Application of :
Sokolov, et al. :
Application No. 09/819,120 : ON PETITION
Filed: March 27, 2001 :
Attorney Docket No. SUN1P811/P5512 :

This decision is mailed in response to the petition under 37 CFR 1.181, filed January 13, 2009, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely respond to the Notice of Allowability, mailed May 16, 2006, which set a three (3) month period for reply. Accordingly, this application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on September 28, 2006.

Petitioners assert the application did not become abandoned because the May 16, 2006 Notice of Allowability erroneously required corrected drawings based on the Notice of Draftsperson's Patent Drawing Review, mailed contemporaneously with the Notice of Allowability, which indicates that the drawings filed on July 2, 2001 are objected to because Fig. 6G is not free of erasures, alterations, overwritings, interlineations, folds, or copy machine marks, and the numbers and reference characters of Fig. 6G are not legible.

Petitioners assert that on certificate of mailing date June 28, 2001 that an annotated drawing sheet and a replacement drawing sheet for Fig. 6G were timely submitted. Therefore, petitioner argues that the application is not abandoned and the Notice of Abandonment was mailed in error.

Petitioners are reminded that the Notice of Allowability set a three month non-extendable period for reply. The Notice of Allowability was never withdrawn. Failure to timely reply resulted in the abandonment of the application. Even if an applicant believes an Office action is mailed in

error or lacks merit, failure to respond *in some manner* by the deadline set in the Office action will result in the application's abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

Petitioners are encouraged to file a petition to revive under the unavoidable delay provisions of 37 CFR 1.137(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUN MICROSYSTEMS, INC.
c/o Dorsey & Whitney LLP
370 SEVENTEENTH ST.
SUITE 4700
DENVER CO 80202

MAILED

APR 27 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sokolov, et al. :
Application No. 09/819,120 :
Filed: March 27, 2001 :
Attorney Docket No. SUN1P811/P5512 :

This decision is mailed in response to the petition under 37 CFR 1.137(b), filed March 19, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely respond to the Notice of Allowability, mailed May 16, 2006, which set a three (3) month period for reply. Accordingly, this application became abandoned on August 17, 2006. A Notice of Abandonment was mailed on September 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 5

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JAN 03 2003

OFFICE OF PETITIONS

In re Application of	:	DECISION ACCORDING
Kuo, Polikoff, Pinkel, Albertson, Berchuk, Grey	:	STATUS UNDER
Application No. 09/819148	:	RULE 47(a)
Filed: March 27, 2001		AND
Attorney Docket No. 02307O117500	:	PETITON UNDER RULE 137(b)

This is in response to the petition under 37 CFR 1.47(a) for an inventor who refuses to sign and under 1.137(b) to revive an unintentionally abandoned application, filed October 28, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is also **GRANTED**

PETITION TO ACCORD 1.47(A) STATUS

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on May 25, 2001, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a $65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on July 26, 2001

In response thereto, petitioner filed the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although inventor Polikoff was presented with a complete copy of the application papers, the inventor has, to date, failed to execute the same. Inventor Polikoff's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Deposit Account 20-1430 has been charged $130.00 for the required petition fee as authorized

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION
UNDER 37 CFR 1.137(b)

As indicated above abandoned on May 7, 2002, for failure to respond to a notice of missing parts.

Petitioner has responded by filing a declaration executed by the participating inventors, a petition to accord the application rule 1.47(a) status (addressed above), a fee for a five-month extension of time in the amount of $980.00, a late filing fee in the amount of $65.00, and a petition fee in the amount of $640.00.

The extension of time requested was not timely filed within the extendable time period set by the Notice, thus it has not been accepted. The fee for the extension of time has not been charged.

Pursuant to the authorization provided by petitioner, Deposit Account 20-1430 will be charged a late filing fee in the amount of $65.00, and a petition fee in the amount of $640.00.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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LETTER

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JAN 03 2003

OFFICE OF PETITIONS

Daniel Polikoff
564 Central Ave. #210
Alameda, CA 94501

In re Application of
Kuo, Polikoff, Pinkel, Albertson, Berchuk, Grey
Application No. 09/819,148
Filed: March 27, 2001
Attorney Docket No. 02307O117500

Dear Mr. Polikoff:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries concerning this communication should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER

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SAN FRANCISCO CA 94111-3834

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 9

MAIL

APR 2 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

In re Application of :
Norrell et al. :
Application No. 09/819,158 :
Filed: March 27, 2001 :
For: DSL COMPATIBLE LOAD COIL :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on March 6, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

All of the attorneys of record are granted the request for withdraw of attorney/agent.
All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Jim H. Salter
Blakely, Sokoloff, Taylor, and Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:	
PETROPOULOS et al.	:	NOTICE
Application No. 09/819,180	:	
Filed: 03/27/2001	:	
Attorney Docket No. ENOS0001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed April 3, 2007.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No. 8

JAY H. MAIOLI
COOPER & DUNHAM LLP
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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FEB 2 5 2004

OFFICE OF PETITIONS

In re Application of
Haraguchi et al.
Application No. 09/819,190
Filed: March 28, 2001
Attorney Docket No. 7217/64061

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 13, 2004, to revive the above-identified application.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed May 7, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 8, 2001. A Notice of Abandonment was mailed on November 3, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 23 2003

Paper No. 6

In re Application of
Paul F. Connelly, Jr.
Application No. 09/819,201
Filed: March 28, 2001
Attorney Docket No. PRC 00422

: DECISION ON PETITION

The facsimile papers filed on May 14, 2003 are being treated as a petition under 37 CFR 1.181 to withdraw the examiner's holding that this application stands abandoned for failure to timely file a proper reply to the Office letter dated April 18, 2002. No fee is required for the petition.

The petition is dismissed.

The petition is not signed. Therefore, the petition cannot be treated on its merits. Parenthetically, it is noted that if petitioner had filed the petition prior to the mailing of a Notice of Abandonment, the paper would have been treated as a submission of a duplicate paper, but a signed statement to the effect that the attached correspondence had been previously filed in the Office on a particular date would still have been necessary.

Petitioner may submit a renewed petition, without fee, provided that the renewed petition is filed within two months of the date of this decision. See 37 CFR 1.181(f). No fee is required for the renewed petition. The renewed petition may take the form of a ratification of the petition filed on July 2, 2003.

PETITION DISMISSED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JAN - 5 2004

Paper No. 8

In re Application of
Paul F. Connelly, Jr.
Application No. 09/819,201
Filed: March 28, 2001
Attorney Docket No. PRC 00422

: DECISION ON
: RENEWED PETITION

This is a decision on the renewed petition filed by on September 22, 2003 by which petitioner again requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated April 8, 2002. The renewed petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The renewed petition is denied.

Petitioner alleges that the application is not in fact abandoned, because a proper reply to the Office letter in question was in fact filed on August 14, 2002, and the reply was timely filed by reason of a concurrent request for a one month extension of time and payment of the $55.00 extension fee.

A review of the record shows that the Office action dated April 8, 2002 set a shortened statutory period for filing a reply thereto which ran three months from the date of that action. The reply is of record in the application file as paper No. 4, and is endorsed as "not entered" (N.E.) because the response was considered to be untimely due to the fact that it was received more than three months after the April 8, 2002 date of the Office action.

Petitioner has now supplied evidence in the form of a copy of a post card receipt showing that a check in the amount of $55.00 accompanied the reply in payment of a one month extension of time fee. Office financial records confirm receipt of this fee. In accordance with 37 CFR 1.136(a), payment of the extension fee is considered to be a constructive petition for an extension of time.

However, even considering that the period for filing a reply to the Office action dated April 8, 2002 was extended to run through August 8, 2002, four months from the date of the Office action, it is clear that the reply was not timely filed. August 8, 2002 was a Thursday, and therefore, a reply received after that date would have required that the period for response be extended more than one month. With respect to a reply filed on August 14, 2002, a two month extension would have been necessary. The record contains no request for an extension of time of time of two months, either a written request or a constructive request, and petitioner has neither alleged that any such extension of time was requested nor furnished evidence showing that a two month extension of time was requested. Accordingly, there is no basis upon which to withdraw the holding of abandonment.

Petitioner may file a request for reconsideration of this decision, provided that the request is filed within two months of the date of this decision. In the absence of evidence establishing that petitioner had requested an extension of time through August 14, 2002, the is, a two month

extension of time, and had paid the fee therefor, the holding of abandonment will not be withdrawn. Petitioner may wish to consider proceeding under 37 CFR 1.137.

PETITION DENIED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

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APR 14 2004

Paper No. 10

In re Application of
Paul F. Connelly, Jr.
Application No. 09/819,201
Filed: March 28, 2001
Attorney Docket No. PRC 00422

: DECISION ON SECOND
: RENEWED PETITION

This is a decision on the second renewed petition filed by facsimile transmission on April 2, 2004 by which petitioner again requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated April 8, 2002. The second renewed petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The second renewed petition is granted.

Petitioner again alleges that the application is not in fact abandoned, because a proper reply to the Office letter in question was in fact filed on August 14, 2002 with a certificate of mailing dated August 8, 2002, and the reply was timely filed by reason of a concurrently filed request for a one month extension of time and payment of the $55.00 extension fee.

A review of the record, which includes a submission filed by facsimile transmission on March 3, 2004 now attached to the instant petition, shows that the Office action dated April 8, 2002 set a shortened statutory period for filing a reply thereto which ran three months from the date of that action. The reply is of record in the application file as paper No. 4, and is endorsed as "not entered" (N.E.) because the response was considered to be untimely due to the fact that it was received more than three months after the April 8, 2002 date of the Office action.

Petitioner had previously supplied evidence in the form of a copy of a post card receipt showing that a check in the amount of $55.00 accompanied the reply in payment of a one month extension of time fee had been received in the Office on August 14, 2002. Office financial records confirm receipt of this fee. In accordance with 37 CFR 1.136(a), payment of the extension fee is considered to be a constructive petition for an extension of time. However, even considering that the period for filing a reply to the Office action dated April 8, 2002 was extended to run through August 8, 2002, four months from the date of the Office action, a reply filed on August 14, 2002, would not have been timely.

Petitioner has now supplied evidence in the March 3, 2004 submission which shows that the extension of time and the fee therefor were filed with a 37 CFR 1.8(a) certificate of mailing dated August 8, 2002, a date within the period set for reply by the Office letter dated April 8, 2002, as extended by one month. Although the transmittal letter was directed to an incorrect application number, it is clear by reason of counsel's docket number, and the status of this application as a small entity application versus the large entity status of the application number erroneously listed on the transmittal letter for the extension of time, that the extension of time and fee were in fact directed to the instant application.

In summary, this application is not abandoned because petitioner has now established that a reply, a request for a one month extension of time, and the fee therefor, were timely filed. Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications examiner for the following actions:

1. Correct the RAM system to show a $55.00 extension of time fee filed on August 14, 2002 in this application, rather than in application 08/471,969.

2. Entry of the amendment filed on August 14, 2002 into the application and correction of the PALM system to show that the amendment was filed with a certificate of mailing dated August 8, 2002 and a one month extension of time filed on August 14, 2002 with a certificate of mailing dated August 8, 2002.

Thereafter, the application will be returned to the examiner for action on the reply filed on the amendment filed on August 14, 2002, certificate of mailing date August 8, 2002.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

James Ray & Associates
2640 Pitcairn Road
Monroeville, PA 15146

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JAMES RAY & ASSOCIATES
2640 Pitcairn Road
Monroeville, PA 15146

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of
Paul F. Connelly Jr.
Application No. 09/819,201
Filed: March 28, 2001
Attorney Docket No. PFC 00422

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed June 21, 2005, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the final Office action mailed July 9, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on October 10, 2004. A Notice of Abandonment was mailed on April 25, 2005.

The instant petition requests revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 3741 will be informed the application has been revived and will consider the Request for Continued Examination in due course.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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JJGJR.: 06-06

Paper No: __

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	ON PETITION
Neubauer, et al.	:	
Application No. 09/819,211	:	
Filed: 28 March, 2001	:	
Attorney Docket No. 2001P05653US	:	

This is a decision on a petition filed on 2 May, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 1 November, 2005, with reply under a non-extendable deadline on or before 1 February, 2006;
- the instant application went abandoned by operation of law after midnight 1 February, 2006;
- the Office mailed a Notice of Abandonment 14 April, 2006;
- Petitioner filed the instant petition on 2 May, 2006, with fee, and, *inter alia*, reply in the form of the fees due, and made the statement of unintentional delay–thus, Petitioner

appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Publications Branch to be processed into a patent in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Satoru Ueda	: DECISION ON REQUEST FOR
Patent Number	: 7610338	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/819,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 05/03/2010

Applicant	: Arthur H. Ozaki	: DECISION ON REQUEST FOR
Patent Number	: 6833874	: RECALCULATION of PATENT
Issue Date	: 12/21/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 09/819,250	: OF WYETH
Filed	: 03/27/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. 12

DONALD DIAMOND
2180 JEFFERSON STREET, 2ND FLOOR
NAPA, CA 94559-1250

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Forrest B. Phillips :
Application No. 09/819,256 :
Filed: March 27, 2001 :
Attorney Docket No. 22845.01400 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 30, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 31, 2003.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to Technology Center AU 3764 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Forrest B. Phillips
P.O. Box 3682
Napa, CA 94558

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Donald Diamond
2180 Jefferson Street
Second Floor
Napa, CA 94559-1200

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OFFICE OF PETITIONS

In re Application of	:	
Forrest B. Phillips	:	
Application No. 09/819,256	:	DECISION ON PETITION
Filed: March 27, 2001	:	TO WITHDRAW
Attorney Docket No. 22845.01400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Donald Diamond has been revoked by the applicant of the patent application on February 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Monica Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Wolf Greenfield & sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2206

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of
Douglas L. Voigt
Application No. 09/819,265
Filed: March 27, 2001
Attorney Docket No. 10003993-1

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 19, 2005 to withdraw the above-identified application from issue after payment of the issue fee.

It does not appear that the instant petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Russell D. Culbertson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Culbertson desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Culbertson, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 12, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: ▯Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above.▯ Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center AU 2171 for further processing of the request for continued examination under 37 CFR 1.114 filed January 19, 2005.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Russell D. Culbertson
The Culbertson Group, P.C.
1114 Lost Creek Blvd., Suite 420
Austin, TX 78746

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CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Hagiwara et al	:	DECISION ON APPLICATION
Application No. 09/819,273	:	FOR
Filed: March 28, 2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 9281-3969	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed September 10, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred fifteen (315) days to three hundred eighty-two (382) days. This request is made, in part, on the basis that the Office has failed to issue a patent within 3-years of the actual filing date of the application.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Patentees are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

within 3 years. A copy of this decision should accompany the request. Patentees may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

As to the application for patent term adjustment at the time of mailing of the notice of allowance, this request is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is three hundred four (304) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 14, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 315 days. On September 10, 2004, the instant request for reconsideration was timely filed[1]. Applicants disclose that the period of adjustment for Office delay in mailing the non-final Office action mailed November 5, 2003 is 96 days, not 102 days. The Office action was mailed in response to their response received April 1, 2003, not March 26, 2003. Furthermore, as the response was received On April 1, 2003, not March 26, 2003, a period of reduction of 5 days should have been entered.

Applicants state that the patent issuing from this application is not subject to a terminal disclaimer.

A review of the application file reveals that applicants are correct in terms of the amount and basis for the correction of both the adjustment from 102 days to 96 days and the reduction from 0 days to 5 days.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is three hundred four (304)

---

[1] Office records indicate that the Issue Fee was received on September 16, 2004.

days (213 + 96 days of Office delay reduced by 5 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

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October 2004

David C. Ripma, Patent Counsel
Sharp Laboratories of America, Inc.
5750 NW Pacific Rim Boulevard
Camas, WA 98607

In re Application of:
Wei Pan et al.
Serial No.: 09/819.296
Filed: March 27, 2001
Attorney Docket No.: SLA 0515

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON EXAMINER'S FAILURE TO RECEIVE RCE FILED BY APPLICANT" filed on August 25, 2003 under 37 C.F.R. § 1.181(a). There is no fee for this petition. As such, the $130.00 petition fee charged to the given Deposit Account will be credited to that account.

The petition is **GRANTED**.

The application was held abandoned for failure to file a proper reply to the final Office action mailed on December 31, 2002. A Notice of Abandonment was mailed on August 12, 2003.

Petitioner asserts that a response (an RCE, a 37 C.F.R. § 1.114 submission and a one-month extension of time) was timely filed via facsimile transmission on April 29, 2003. The evidence provided by the petitioner includes a statement which attests upon a personal knowledge basis to the previous facsimile transmission as well as a copy of the sending unit's report confirming transmission. A copy of the "Auto-Reply Facsimile Transmission" and a copy of the response were also included as attachments to the petition. The copy of the response contains the required certificate of facsimile transmission (dated April 29, 2003) under 37 C.F.R. § 1.8 (a)(1)(ii). The evidence is sufficient under 37 C.F.R. § 1.8 (b) to establish that the response was timely filed.

For the above stated reason, the petition is granted. The Notice of Abandonment mailed August 12, 2003 is hereby **VACATED** and the holding of abandonment is withdrawn.

The copy of the response submitted with the petition on August 25, 2003 is accepted since the response originally submitted was apparently lost.

The response will be processed by the Technology Center 2800 support staff and the examiner will prepare an Office action based upon the response.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

James Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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OFFICE OF PETITIONS

ExxonMobil Upstream Research Company
P.O. Box 2189
Houston, TX 77252-2189

In re Application of

Varadaraj, et al.

Application No. 09/819,332

Filed: March 28, 2001

Attorney Docket No. PM 98.079

DECISION ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 or in the Alternative Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)."

The petition to withdraw the holding of abandonment is granted.

The petition under 37 CFR 1.137(b) is moot.

This application was held abandoned on August 16, 2001, after no reply was received to the Notice of Missing Parts of Nonprovisional Application mailed June 15, 2001. The notice set forth a shortened period for reply of two months from its mailing date and required the submission of an oath or declaration and a surcharge of $130.00. No response was beloved to have been received and a Notice of Abandonment was mailed on November 3, 2003. The instant petition was filed on November 7, 2003, in which petitioner maintains that a timely response was filed to the June 15, 2001, notice. The petition was accompanied by an Office date stamped postcard that acknowledged receipt of an oath or declaration and surcharge on June 23, 2001.

As the Office has acknowledged having received the reply to the June 15, 2001, notice, the holding of abandonment was improperly imposed and is withdrawn. The petition under 37 CFR

1.137(b) is rendered moot by this decision as there is no remedy that can be provided pursuant to 37 CFR 1.137(b) in light of the withdrawal of the holding of abandonment.

Deposit account 05-1328 will be refunded $1,330.00 for the fee for the petition under 37 CFR 1.137(b).

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

Katherine D. Lee
FOLEY & LARDNER
Firstar Center
777 East Wisconsin Avenue
Milwaukee WI 53202-5367

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SEP 30 2003

OFFICE OF PETITIONS

In re Application of Gabriel et al. Application No. 09/819,343 Filed: March 28, 2001 Attorney Docket No. 39153/298 (F0785)	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 15, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an 18 month publication country on December 12, 2001 and February 22, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. The Office records indicate that the application was published on October 3, 2002.

This application is being forwarded to Technology Center Art Unit 1756.

Any inquiries concerning this decision may be directed to the undersigned at (703) 306-5589.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6385105	2002-05-07	09819352	2001-03-28	ID #010107 - JLR

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/DJCushing/	Date (YYYY-MM-DD)	2007-02-20
Name	David J. Cushing	Registration Number	28703

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6385105
Issue Date: May 7,2002
Application No. 09819352
Filed: March 28,2001
Attorney Docket No. 14459

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 20,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 20,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLAXOSMITHKLINE
Corporate Intellectual Property -UW2220
P. O. Box 1539
King of Prussia PA 19406-0939

COPY MAILED
AUG 1 7 2004
OFFICE OF PETITIONS

In re Application of :
FRIEDE et al. :
Application No. 09/819,464 : DECISION GRANTING PETITION
Filed: march 28, 2001 : UNDER 37 CFR 1.55(c)
Attorney Docket No. B45070-1 :

This is a decision on the petition styled as filed under 37 CFR 1.78(a)(3) and 35 USC 120, filed January 13, 2004, which is properly treated as a petition under 35 USC 119(a)-(d) and 37 CFR 1.55(c), for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign UK Application No. 9513107.4 , filed June 28, 1995.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(I), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified pending nonprovisional application was filed on March 28, 2001, which is after November 29, 2000 and claims benefit under 35 U.S.C. § 120 of U.S. application No. 08/945,450 which, as the national stage under 35 USC 371 of PCT/EP96/01464 has a filing date of April 1, 1996, which is within 12 months of June 28, 1995 (the filing date of the foreign application to which benefit is now being claimed). On January 13, 2004, an ADS as provided by 37 CFR 1.76 was received which identifies the foreign application for which priority is claimed by application number, country and filing date, and likewise deletes the prior reliance on UK 96910019.7. The required petition fee of $ 1330 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

A filing receipt accompanies this decision on petition. The receipt of the certified copy of the foreign priority document is acknowledged.

This application is being brought to the attention of Technology Center AU 1648 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (703) 305-1820..

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 7

MAIL

APR 15 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KENYON & KENYON
ONE BROADWAY
NEW YORK NY 10004

In re Application of
Amir David Kolsky
Application No. 09/819,489
Filed: March 28, 2001
For: INITIATING A PUSH SESSION BY DIALING THE PUSH TARGET

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as attorney or agent and change of address filed on March 8, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents associated with Customer 26646 listed in the Request for withdraw are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being return to TC 2600 Central Files to await a response from the Office Action mailed March 1, 2004.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

CC: Nitzan Daube
MobileSpear
P.O. Box 3489
Ramat-Gan, 52136
Israel

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

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MAR 04 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

McKee, Voorhees & Sease
801 Grand Avenue, Suite 3200
Des Moines, IA 50309-2721

Paper No. 5

In re application of
Pamela S. Yegge et al.
Application No. 09/819,497
Filed: March 28, 2001
For: AGRICULTURAL BUSINESS SYSTEM AND METHODS

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 21, 2002 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed November 21, 2002 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

snm/tpl : 2/26/03

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,649,417	2003-11-18	09/819,511	2001-03-28	0815.2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joseph A. Marasco/	Date (YYYY-MM-DD)	2008-02-11
Name	Joseph A. Marasco	Registration Number	32798

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6649417
Issue Date: November 18,2003
Application No. 09819511
Filed: March 28,2001
Attorney Docket No. 0815.2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,512	03/28/2001	Dai Terasawa	S004-4241	4787

7590 05/06/2004

Adams & Wilks
31st Floor
50 Broadway
New York, NY 10004

EXAMINER
MISKA, VIT W

ART UNIT	PAPER NUMBER
2841	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/819,512			

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED:

NOTICE OF ABANDONMENT

This application is abandoned in view of:

☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.

☐ A reply (with Certificate of Mailing or Transmission of _____) was received on _____ which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.

☐ A proposed reply was received on _____ , but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).

☐ A reply was received on _____ , but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).

☐ No reply has been received.

☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).

☐ The submitted fee of $_____ is insufficient. A balance of $ _____ is due.
The issue fee by 37 CFR 1.18 is $_____ . The publication fee, if required, by 37 CFR 1.18(d) is $_____.

☒ The issue fee and publication fee, if applicable, have not been received.

☐ Applicant's failure to timely file corrrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.

☐ No corrected drawings have been received.

☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.

☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.

☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

☐ The reason(s) below: _____

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

PTO-1432 (07/01)

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 6

THE LAW OFFICES OF MIKIO ISHIMARU
1110 SUNNYVALE-SARATOGA ROAD
SUITE A1
SUNNYVALE, CA 94087

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APR 0 7 2004

OFFICE OF PETITIONS

In re Application of
Bruce et al.
Application No. 09/819,515
Filed: March 27, 2001
Attorney Docket No. 23-002

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 26, 2004, to revive the above-identified application.

The petition is **granted.**

This application became abandoned for failure to timely reply within three months to the non-final Office action mailed June 3, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, this application became abandoned on September 4, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475.00 extension of time fee submitted with the petition on March

26, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and a refund check will be mailed to petitioner.

The file is now being forwarded to Technology Center 2800 for further examination on the merits.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: SHABNEEZ KOTADIA
BiMICRO Networks, Inc.
45550 Northport Loop East
Fremont, CA 94538

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BiTMICRO NETWORKS, INC.
ATTN: LEGAL DEPARTMENT
45550 NORTHPORT LOOP EAST
FREMONT CA 94538

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OFFICE OF PETITIONS

In re Application of	:	
Bruce et al.	:	
Application No. 09/819,515	:	ON PETITION
Filed: March 27, 2001	:	
Attorney Docket No. BiT011	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 4, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed May 14, 2004. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained on October 14, 2004. Accordingly, this application became abandoned on November 15, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2100 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Technology Center 2100

Paper No. 7

Christopher P. Foley, Esq.
Finnegan, Henderson, Farabow, Garrett & Dunner
1300 I Street, N.W.
Washington, D.C. 20005-3315

In re Application of: David Vogt	)	
Application No. 09/819,521	)	**DECISION ON REQUEST FOR**
Filed: March 27, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: PROVISION OF TRANSPARENT	)	**AND FOR CHANGE OF**
PROXY SERVICES TO A USER OF	)	**CORRESPONDENCE ADDRESS**
A CLIENT DEVICES	)	

This is a decision on the Request To Withdraw from Representation filed August 6, 2001.

As a result of the Revocation of Prior Powers of Attorney, filed 5 September 2001, Steven C. Sereboff is no longer appointed as attorney or agent of record. Therefore, the request to withdraw is **DISMISSED AS MOOT**.

Furthermore, because Mr. Sereboff is not authorized to act on behalf of the attorneys of record, ***he can not effect a change of address***. Accordingly, the request for a change in correspondence address is **DISMISSED**.

A courtesy copy of this decision is being supplied to the attorneys requesting withdrawal at the below-listed address.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Pinchus M. Laufer
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Electronic Commerce
(703) 306-4160

cc: Steven C. Sereboff
Netzero, Inc.
2555 Townsgate Road
Westlake Village, California 93161

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SAMUEL H. DWORETSKY
AT & T CORP.
P.O. BOX 4110
MIDDLETOWN NJ 07748-4110

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Angela L. Chiu et al	:	
Application No. 09/819,555	:	ON PETITION
Filed: March 28, 2001	:	
Attorney Docket No. 105820	:	

This is a decision on the petition, filed September 13, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE and the IDS, filed on September 13, 2005, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael N. Haynes appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he act. However, if Mr. Haynes desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Haynes, the

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2664 for processing of the request for continued examination under 37 CFR 1.114 filed September 13, 2005.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MICHAEL HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of
Chiu et al.
Application No. 09/819,555
Filed: March 28, 2001
Attorney Docket No. 105820

ON PETITION

This is a decision on the petition under 37 CFR §1.181(a) to withdraw the holding of abandonment, filed August 24, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed January 11, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 12, 2006. A Notice of Abandonment was mailed on July 26, 2006.

Petitioner asserts that the Notice of Allowance and Fee (s) Due mailed on January 11, 2006 was never received. A review of the record indicates the Notice of Allowance and Fee (s) Due was mailed to an incorrect correspondence address. A change of correspondence address was received in the Office on August 31, 2005. However the change of correspondence address was entered improperly. Thus the Notice of Allowance and Fee (s) Due was improperly mailed.

In light of the fact that petitioner has submitted a reply to the Notice of Allowance on petition in the form of PTOL-85, the application is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW Sep-08

JAMES MARC LEAS
37 BUTLER DRIVE
S. BURLINGTON VT 05403

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Ahmed A. Busnaina	:	DECISION ON PETITION TO
Application Number: 09/819578	:	WITHDRAW HOLDING OF
Filing Date: 03/28/2001	:	ABANDONMENT
Attorney Docket Number: 837BUS-X	:	

This is a decision on the petition filed on August 8, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely and properly respond to the final Office action mailed on January 14, 2008, which set a three (3)-month shortened statutory period for reply. On March 14, 2008, an amendment after final rejection was filed. On April 2, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on March 14, 2008 fails to place the application in condition for allowance. Notice of Abandonment was mailed on August 6, 2008.

Petitioners aver that a Request for Continued Exanimation (RCE) was timely filed by facsimile on April 12, 2008. In support, petitioners submitted with the petition a copy of the RCE allegedly filed. The RCE bears a Certificate of Mailing or Transmission dated April 12, 2008, signed by petitioner's registered patent practitioner, James Marc Leas. The petition is also signed by attorney Leas and states that applicant filed an RCE on April 12, 2008. A copy of the sending unit's receipt as well as the USPTO Auto-Reply Facsimile Transmission report,

showing receipt of three (3) pages on April 12, 2008, has also been supplied.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

As the petition is signed by practitioner Leas, the person who signed the Certificate of Transmission, the petition is construed as satisfying item (2) above.

As petitioners have provided convincing evidence that a proper response to the final Office action was transmitted to the USPTO on April 12, 2008, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is **withdrawn**, and the notice of abandonment is **vacated**.

The application is being referred to Technology Center Art Unit 1792 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DEC 0 6 2006
OFFICE OF PETITIONS

SCOTT W. DOYLE, ESQ.
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN VA 22012

In re Application of :

Gregory W. Easley et al. :
Application No. 09/819,603 : DECISION ON PETITION
Filed: March 29, 2001 : TO WITHDRAW
Attorney Docket No. 5914.000011 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***application is being transferred to another attorney***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W., Suite 900
Washington D.C. 20004

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United States Patent and Trademark Office
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AUG 0 1 2007

OFFICE OF PETITIONS

Scott W. Doyle, Esq.
Morrison & Foerster LLP
1650 Tysons Boulevard, Suite 300
Mclean, VA 22012

In re Application of	:	
Gregory W. Easley et al.	:	
Application No. 09/819,603	:	DECISION ON PETITION
Filed: March 26, 2001	:	TO WITHDRAW
Attorney Docket No. 59124.000011	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Adam Keser on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed May 11, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Gregory W. Easley**
718 Broadway
Apt. 5C
New York, NY 10003

cc: **Marc Kaufman, Esq.**
Nixon Peabody LLP
401 9th Street, N.W.
Suite 900
Washington D.C. 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/819,603	03/29/2001	Gregory W. Easley	59124.000011

CONFIRMATION NO. 4194

OC000000025127263

SCOTT W. DOYLE, ESQ.
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 300
MCLEAN, VA 22012

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/17/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

OIPE JC106
JUL 2 4 2001
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/819,667	03/29/2001	Tetsuya Yano	35.C15229

CONFIRMATION NO. 3225

FORMALITIES LETTER

OC000000006112935

05514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Date Mailed: 05/24/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

07/26/2001 NTECKLU1 00000048 09819667
130.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 130.**

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821 (g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**

- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

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OIPE JC106
JUL 2 4 2001
PATENT & TRADEMARK OFFICE

35.C15229

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	
	:	Examiner: Not Yet Assigned
TETSUYA YANO ET AL.	)	
	:	Group Art Unit: Unassigned
Application No.: 09/819,667	)	
	:	
Filed: March 29, 2001	)	
	:	
For: NUCLEIC ACID FRAGMENT PRIMER OR PROBE, AND METHOD OF DETECTING POLYHYDROXYALKANOATE SYNTHESIZING MICROORGANISM BY USING THE SAME	)	July 20, 2001

Box Missing Parts
Commissioner for Patents
Washington, D.C. 20231

ATTENTION: APPLICATION PROCESSING DIVISION, SPECIAL PROCESSING AND CORRESPONDENCE BRANCH

RESPONSE TO NOTICE TO FILE MISSING
PARTS OF APPLICATION - FILING DATE GRANTED

Sir:

In response to the NOTICE TO FILE MISSING PARTS OF APPLICATION - FILING DATE GRANTED mailed May 24, 2001, enclosed please find an executed Declaration/Power of Attorney form, together with the surcharge fee of $130.00. A Submission of Computer Readable Form Under 37 C.F.R. §1.821(e) is enclosed. Also enclosed is a copy of the NOTICE TO FILE MISSING PARTS OF APPLICATION - FILING DATE GRANTED.

The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 06-1205.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

Attorney for Applicants

Registration No. 24947

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

NY_MAIN 184971v1

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JAN 0 9 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/819,667	03/29/2001	Tetsuya Yano	35.C15229

CONFIRMATION NO. 3225

FORMALITIES LETTER

OC000000006905657

05514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Date Mailed: 10/18/2001

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

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PART 2 - COPY TO BE RETURNED WITH RESPONSE

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Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-9889

MAIL

JUL 15 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
MCALPINE, GARY L. :
Application No. 09/819,675 :
Filed: March 29, 2001 :
For: METHOD AND APPARATUS FOR A :
TRAFFIC OPTIMIZING MULTI-STAGE :
SWITCH FABRIC NETWORK :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of record filed on June 26, 2003.

A grantable request to withdraw as attorney/agent of record must do the following:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All of the attorneys/agents listed in the request and those associated with Customer Number 20,457 are granted the request for withdrawal. All other attorneys remain of record. Furthermore, the Patent Office does not recognize the withdrawal of a firm.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: ATTN: RICHARD PAGADUAN
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 12-01

Paper No. 9

OLIFF & BERRIDGE, PLC
SUITE 500
277 S. WASHINGTON ST.
ALEXANDRIA, VA 22314

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JAN 1 1 2002

OFFICE OF PETITIONS

In re Application of
Natori
Application No. 09/819,688
Filed: 29 March, 2001
Attorney Docket No. 109120

This is a decision on the petition filed on 12 October, 2001, and supplemented via FAX on 7 January, 2002, styled as "Request for Correction of PALM Records," and properly treated as a petition under 37 C.F.R. §1.53, requesting that the above-identified application be accorded a filing date of 29 March, 2001, and that a corrected filing receipt issue so stating.

The petition is **GRANTED**.[1]

The application was deposited on 29 March, 2001, in a language other than English (Japanese) without either a translation and certification of translation accuracy or a signed oath/declaration, and acceptable drawings.

The Office mailed on 29 May, 2001, a Notice of Missing Parts (Filing Date Granted) requiring the filing of (a) the signed oath/declaration and (b) translation and certification, along with applicable fees.

On 19 July, 2001, Petitioner:

- responded with the signed oath/declaration, translation and certification, and applicable fees; and
- requested correction of the Inventor's residence.

It is noted that the Application Data Sheet submitted by Petitioner stated the Inventor's city and state of residence as "Suwa-shi" and "Nagano-ken," respectively--information in contrast to the statement in the Japanese Language Declaration which presents the Inventor's city and state of residence as "Chino-shi" and "Nagano-ken," respectively.

[1] No petition fee was charged upon filing and therefore no refund/credit is proper.

On 17 September, 2001, the Office mailed an "Updated Filing Receipt" reflecting the requested change in the inventor's listed city of residence, but indicating a filing date of 19 July, 2001.

As noted above, on 12 October, 2001, Petitioner requested a corrected filing receipt as to the filing date, requesting that the application be accorded a filing date of 29 March, 2001, and that a corrected filing receipt issue so stating.

A review of the application papers reveals that the application in fact was filed and received in the Office on 29 March, 2001, and that the date-stamped (29 March, 2001) copy of the receipt card filed by Petitioner (in the 7 January, 2002, FAX supplement) and evidencing that filing date recites as received, *inter alia*: "app chk 117644 $944, 16 pp Jap-lang spec/clms/abs 3 shts drwngs (figs1-3)[.]"

An intermediate processing error appears to have improperly changed the application filing date from 29 March, 2001, to 19 July, 2001. Therefore, the petition is granted to issue a corrected filing receipt reflecting a filing date of 29 March, 2001.

The application as filed on 29 March, 2001, will be considered by the examiner in due course.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 29 March, 2001, and with a direction to forward to Petitioner a copy of the corrected filing receipt reflecting a filing date of 29 March, 2001.

Telephone inquiries concerning this matter may be directed to John J. Gillon, Jr., Attorney, Office of Petitions, at (703)305-9199.

John J. Gillon, Jr.
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/26/05

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 6828235 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-915
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Virginia Tolbert
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Only issue is a misspelling of "gate". ("Sate" should read as "gate")

[signature]
SPE

2825
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, Virginia 22209

MAILED

JUL 0 8 2003

Technology Center 2100

In re Application of: Knut S. GRIMSRUD	)	
Application No. 09/819,707	)	
Filed: March 29, 2001	)	
For: DEVICE AND METHOD FOR SELECTING OPCODE VALUES WITH MAXIMUM HAMMING DISTANCE TO MINIMIZE LATENCY AND BUFFERING REQUIREMENTS	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed June 2, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Kenyon & Kenyon
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE NW
WASHINGTON DC 20005

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Shimizu, et al.	:	
Application No. 09/819,731	:	ON PETITION
Filed: July 14, 2007	:	
Attorney Docket No. 826.1719	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 14, 2007.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the final Office action, mailed February 24, 2006. This Notice set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on June 26, 2006, made timely by obtaining a one month extension of time and by the fact that June 24, 2006 fell on a Saturday. However, the Amendment failed to place the application in condition for allowance, and Applicants were so notified in an Advisory Action mailed on July 27, 2006. Applicants filed an Amendment, together with a the fees for an RCE and a three month extension of time, on August 4, 2006. However, the Office did not receive the RCE itself, and as such the application became abandoned on August 25, 2006. A Notice of Abandonment was mailed on June 6, 2007 .

Petitioner contends that he did timely file an RCE on August 4, 2006. In support, petitioner has included a copy of an "Electronic Acknowledgment Receipt", listing, *inter alia*, an RCE.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2624 for consideration of the RCE filed August 4, 2600, a copy of which has been supplied with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Matthew W. Stavish, Esq.
Liniak, Berenato, Longacre & White
6550 Rock Spring Drive, Ste. 240
Bethesda, MD 20817

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JUL 03 2007
OFFICE OF PETITIONS

In re Patent of	:
Allen	:
Patent No. 6,461,019	: DECISION ON PETITION
Application No. 09/819,736	:
Issued: October 8, 2002	: UNDER 37 CFR 1.78(a)(3)
Filed: March 29, 2001	:
Attorney Docket No. 05211.001	:

This is a decision on the petitions under 37 CFR 1.78(a)(3), filed June 21, 2005 and April 26, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed concurrently with the instant petition. Petitioner requests correction via Certificate of Correction.

The petition is **DISMISSED**, without prejudice, as follows.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP § 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was

unintentional.

The petition complies with items (2) and (3) above. The petition does not comply with item (1).

The correction of the references to the prior-filed applications that appears on the Certificate of Correction form (PTO/SB/44) is not acceptable as drafted since it improperly incorporates by reference prior-filed provisional application 60/119,804. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

In light of the dismissal of the petition under 37 CFR 1.78(a)(3), it would not be appropriate to grant the requested certificate of correction. See MPEP § 1481.03.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Legal Examiner George Dombroske at (571) 272-3283.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 20

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 1 8 2003

OFFICE OF PETITIONS

In re Application of
Haruhito Ono et al
Application No. 09/819,737
Filed: March 29, 2001
Attorney Docket No. 862.C2183

ON PETITION

This is a decision on the petition, filed April 17, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 17, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

Upon receipt of the file in the Office of Petitions, the file will be forwarded to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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DW 12-02

Paper No. 9

MATTINGLY, STANGER & MALUR, P.C.
SUITE 370
1800 DIAGONAL ROAD
ALEXANDRIA VA 22314

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DEC 1 0 2002
OFFICE OF PETITIONS

In re Application of Yamawaki et al. Application No. 09/819,810 Filed: 29 March, 2001 Attorney Docket No. T&A-106	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed 6 June, 2002, to correct the full name of the fifth named inventor.

The petition is **GRANTED**.

The name of the fifth named inventor will be changed from "BOB HENSHAW" to -- **ROBERT ASTLE HENSHAW** --.

Office PALM records have been corrected to reflect the correct name of the fifth named inventor. A corrected Filing Receipt is attached.

The application file is being forwarded to Technology Center 2600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Masaki Kakihara, et al. :
Application No. 09/819,827 :
Filed: March 29, 2001 :
Attorney Docket No. P 279165 TYF-9951 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition, filed December 1, 2004, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § §120 and 365(c) for the benefit of the prior-filed PCT application as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

A reference to add the prior-filed application on page one following the first sentence of the specification has been included in an amendment filed on December 1, 2004. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120

statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Before the petition under 37 CFR §§ 1.78(a)(3) can be granted, a renewed petition under 37 CFR §1.78(a)(3) and a substitute amendment[1] deleting the incorporation by reference statement to PCT application No. PCT/JP99/05580 filed October 8, 1999 are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(703) 872-9306**.

---

[1] *Note* 37 CFR 1.121

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Masaki Kakihara, et al.	:	
Application No. 09/819,827	:	DECISION ON PETITION
Filed: March 29, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P279165TYF-9951	:	

This is a decision in response to the renewed petition, filed October 24, 2005, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § §120 and 365(c) for the benefit of a prior-filed PCT application.

A review of the record discloses that a petition under 37 CFR 1.78(a)(3), filed December 1, 2004, was dismissed in a decision mailed May 11, 2005. On October 24, 2005, the present petition was filed. The application issued as U.S. Patent No. 6,959,282 on October 25, 2005. Unfortunately, the present petition was not received in sufficient time to accept the delayed claim under 35 U.S.C. § §120 and 365(c). Therefore, petitioner is encouraged to submit a Certificate of Correction (and $100 fee) to include the benefit claim for PCT Application No. PCT/JP99/05580, filed October 8, 1999.

The petition is **DISMISSED**.

This decision is made without prejudice to reconsideration upon the filing of a renewed petition under 37 CFR §1.78(a)(3) and a Certificate of Correction, including the $100 fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

Attachment: Blank Certificate of Correction Form

UNITED STATES PATENT AND TRADEMARK OFFICE

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

In re Application of	:	
Masaki Kakihara, et al.	:	
Application No. 09/819,827	:	DECISION ON PETITION
Filed: March 29, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P279165TYF-9951	:	

This is a decision in response to the renewed petition, filed May 3, 2006, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § §120 and 365(c) for the benefit of prior-filed PCT Application No. PCT/JP99/05580, filed October 8, 1999.

The petition is **GRANTED**.

A review of the record discloses that a petition under 37 CFR 1.78(a)(3), filed December 1, 2004, was dismissed in a decision mailed May 11, 2005. On October 24, 2005, a renewed petition was filed. Unfortunately, the petition was not received in sufficient time to accept the delayed claim under 35 U.S.C. § §120 and 365(c), as the application issued as U.S. Patent No. 6,959,282 on October 25, 2005. On May 3, 2006, the present petition was filed, along with a Certificate of Correction (and $100 fee) to include the claim for the prior-filed PCT application.

On reconsideration, the petition is found to be in compliance with 37 CFR 1.78(a)(3). It is noted that the requested Certificate of Correction was subsequently mailed. A corrected Filing Receipt, which includes the priority claim to the above-noted application, accompanies this decision.

It is noted that a petition fee was paid with the present petition. Since no further petition fee is required for this petition, the $1,370 petition fee paid on May 3, 2006 is being refunded to counsel's deposit account.

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Lead, Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
09/819,827	03/29/2001	3623	2186	P 279165 TYF-9951	87	32	9

CONFIRMATION NO. 1136
CORRECTED FILING RECEIPT
OC000000021372440
OC000000021372440

00909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

Date Mailed: 11/27/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Masaki Kakihara, Yokohama-shi, JAPAN;
Yasuyuki Furuta, Nishikamo-gun, JAPAN;
Haruhiko Terada, Obu-shi, JAPAN;
Yasuyuki Aoki, Nagoya-shi, JAPAN;

Power of Attorney: The patent practitioners associated with Customer Number **909**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP99/05580 10/08/1999

Foreign Applications

JAPAN 10-288301 10/09/1998
JAPAN 10-288302 10/09/1998
JAPAN 10-294307 10/15/1998
JAPAN 10-339216 11/30/1998
JAPAN 10-339217 11/30/1998
JAPAN 10-339218 11/30/1998
JAPAN 10-339219 11/30/1998
JAPAN 10-339220 11/30/1998
JAPAN 11-168340 06/15/1998

If Required, Foreign Filing License Granted: 06/12/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US09/819,827

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CHARGING DEVICE FOR TRANSFERRING INFORMATION RELATING TO THE COLLECTION OF A TOLL ON A MOVING BODY

Preliminary Class

703

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

#15

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Corisis et al.

Serial No.: 09/819,874

Filed: March 28, 2001

For: INTEGRATED CIRCUIT PACKAGE ALIGNMENT FEATURE

Confirmation No.: 2037

Examiner: K. Quinto

Group Art Unit: 2826

Attorney Docket No.: 3770.3US (97-0332.3)

Notice of Allowance Mailed:

June 18, 2002

RECEIVED

OCT 2 3 2002

OFFICE OF PETITIONS

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EV092485206US

Date of Deposit with USPS: October 23, 2002

Person making Deposit: Jon Wentz

PETITION FOR WITHDRAWAL FROM ISSUE TO PERMIT CONSIDERATION OF AN INFORMATION DISCLOSURE STATEMENT UNDER § 1.97 (37 C.F.R. § 1.313(c)(2))

Box **313b**
Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants hereby petition for the withdrawal of this application from issue. The issue fee for this case was paid on September 6, 2002. A copy of the issue fee transmittal is enclosed.

The reason for withdrawal of this application from issue is for consideration of an information disclosure statement under 37 C.F.R.§ 1.97. A Request for Continued Examination (RCE) Transmittal and Supplemental Information Disclosure Statement for this application are filed herewith.

Enclosed is a check in the sum of $130.00 for the fee associated with this petition. Should this amount be insufficient, any deficiency may be charged to Deposit Account 20-1469.

A duplicate of this petition is attached.

Respectfully submitted,

Bradley B. Jensen
Registration No. 46,801
Attorney for Applicants
TRASKBRITT, PC
P. O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: (801) 532-1922

Date: October 23, 2002

BBJ
~~BGP~~/hlg:djp

Enclosures: Copy of this Petition
Check No. 3198 in the amount of $130.00
Copy of Part B – Issue Fee Transmittal
Request for Continued Examination (RCE) Transmittal (1 page)
Supplemental Information Disclosure Statement (6 pages)
Form PTO/SB/08A (5 pages), with cited references (66 documents)
Check No. 3185 in the amount of $740.00

N:\2269\3770.3\Petition for Withdrawal from Issue (for RCE).wpd

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Box ISSUE FEE
Commissioner for Patents
Washington, D.C. 20231
Fax (703)746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

24247 7590 06/18/2002

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

Deidra J. Kiell (Depositor's name)
(Signature)
September 6, 2002 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,874	03/28/2001	David J. Corisis	3770.3US (97-0332.2)	2037

TITLE OF INVENTION: INTEGRATED CIRCUIT PACKAGE ALIGNMENT FEATURE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1280	$300	$1580	09/18/2002

EXAMINER	ART UNIT	CLASS-SUBCLASS
QUINTO, KEVIN V	2826	257-666000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☒ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 TraskBritt
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: MICRON TECHNOLOGY, INC.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Boise, Idaho

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☒ Issue Fee
☒ Publication Fee
☒ Advance Order - # of Copies 5

4b. Payment of Fee(s):

☒ A check in the amount of the fee(s) is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 20-1469 (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) Bradley B. J. (Date) 9/06/2002

Bradley B. Jensen, Reg. No. 46,801

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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TRANSMIT THIS FORM WITH FEE(S)

TRASKBRITT

Intellectual Property Attorneys

230 South 500 East, Suite 300 Salt Lake City, Utah 84102 P.O. Box 2550 Salt Lake City, Utah 84110 Tel: 1.801.532.1922 1.800.900.2001 Fax: 1.801.531.9168

FAX RECEIVED

NOV 2 5 2002

T.C. 2800

FACSIMILE TRANSMITTAL SHEET

Total number of pages including cover letter: _____

To: **Examiner K. Quinto**
U. S. Patent & Trademark Office

Date: **November 21, 2002**

Facsimile No.: **(703) 746-4120**

Telephone No.: **(703) 306-5688**

From: **Bradley B. Jensen**

Your Reference: **09/819,874**

Client/matter number: **2269-3770.3US**

Message/Comments: **Enclosed please find RCE filed October 23, 2002. Please let me know if you need anything else.**

Faxed by: _____ Date: _____ Time: _____

If you do not receive the complete document, please call (801) 532-1922 as soon as possible

CONFIDENTIALITY NOTE: The documents accompanytng this facsimile transmission contain information from the law firm of TRASKBRITT, which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named in this transmission sheet above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited, and that the documents should be returned to this firm immediately. In this regard, if you have received this facsimile transmission in error, please notify us by telephone immediately so that we can arrange for the return of the documents to us at no cost to you.

DP

THE PATENT & TRADEMARK OFFICE MAILROOM DATE STAMPED HEREON IS AN ACKNOWLEDGMENT THAT ON THIS DATE THE PATENT & TRADEMARK OFFICE RECEIVED:

Petition for Withdrawal from Issue to Permit Consideration of an Information Disclosure Statement Under § 1.97 (37 C.F.R. § 1.313(c)(2)) (2 pages w/ duplicate copy); Check No. 3198 in the amount of $130.00; Copy of Part B – Issue Fee Transmittal (1 page); Request for Continued Examination (RCE) Transmittal (1 page w/ duplicate copy); Supplemental Information Disclosure Statement (6 pages); Form PTO/SB/08A (5 pages), with cited references (66 documents); Check No. 3185 in the amount of $740.00.

Invention	INTEGRATED CIRCUIT PACKAGE ALIGNMENT FEATURE
Applicants	Corisis et al.
Filing Date	March 28, 2001
Serial No.	09/819,874
Date Sent	October 23, 2002 via Express Mail Label No. EV092485206US
Client/Matter Docket No.	2269/3770.3US

BBJ/hlg:djp

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OCT 2 3 2002

OFFICE OF PETITIONS

Received from < 8015319168 > at 11/21/02 6:23:23 PM [Eastern Standard Time]

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 16

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

OCT 25 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David J.Corisis et al :
Application No. 09/819,874 :
Filed: March 28, 2001 :
Attorney Docket No. 3770.3US (97-0332.3) :

This is a decision on the petition, filed October 23, 2002, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 13, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failur to *timely* r quest *in writing* that th pr viously paid issue fe be appli d towards th n w Notic and paym nt of any balanc du will result in the abandonm nt of th application.**

#27

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Corisis et al.

Serial No.: 09/819,874

Filed: March 28, 2001

For: INTEGRATED CIRCUIT PACKAGE ALIGNMENT FEATURE

Confirmation No.: 2037

Examiner: K. Quinto

Group Art Unit: 2826

Attorney Docket No.: 2269-3770.3US (97-0332.03/US)

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EV210754451US

Date of Deposit with USPS: April 23, 2003

Person making Deposit: Matthew Wooton

RECEIVED

APR 2 3 2003

OFFICE OF PETITIONS

PETITION FOR WITHDRAWAL FROM ISSUE TO PERMIT CONSIDERATION OF AN INFORMATION DISCLOSURE STATEMENT UNDER § 1.97 IN A CONTINUING APPLICATION (37 C.F.R. § 1.313(c)(2))

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition for the withdrawal of this application from issue. The issue fee for this case was paid on March 10, 2003. A copy of the issue fee transmittal is enclosed.

The reason for withdrawal of this application from issue is for consideration of an information disclosure statement under 37 C.F.R. § 1.97 in a continuing application. A Request for Continued Examination (RCE) for this application is filed with this Petition.

Enclosed is a check in the sum of $130.00 for the fee associated with this petition. Should this amount be insufficient, any deficiency may be charged to Deposit Account 20-1469.

A duplicate of this petition is attached.

Respectfully submitted,

Bradley B. Jensen
Registration No. 46,801
Attorney for Applicant(s)
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: April 23, 2003
BBJ/ps:ljb

Enclosures: Copy of this Petition
Copy of Part B – Issue Fee Transmittal
Check No. 4185 in the amount of $130.00

Document in ProLaw

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** Box ISSUE FEE
Commissioner for Patents
Washington, D.C. 20231
Fax (703)746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

24247 7590 12/18/2002

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Express Mail Mailing Label No.: EV 210754624 US

Date of Deposit with USPS: March 10, 2003

Person making Deposit: Matthew Wooton

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,874	03/28/2001	David J. Corisis	3770.3US (97-0332.2)	2037

TITLE OF INVENTION: INTEGRATED CIRCUIT PACKAGE ALIGNMENT FEATURE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$0	$0	$0	03/18/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
QUINTO, KEVIN V	2826	257-666000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

XX "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 TraskBritt
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: MICRON TECHNOLOGY, INC.

(B) RESIDENCE: (CITY and STATE OR COUNTRY): Boise, Idaho

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual XX corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

XX Issue Fee (difference between what is owing & what was prev. paid)
☐ Publication Fee
XX Advance Order - # of Copies 5 (Prev. paid)

4b. Payment of Fee(s):

XX A check in the amount of the fee(s) is enclosed. (difference between what is owing & what was prev. paid)
☐ Payment by credit card. Form PTO-2038 is attached.
XX The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number 20-1469 (enclose an extra copy of this form). any deficiency in

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature) Bradley B. J (Date) 3/10/2003

Bradley B. Jensen, Reg. No. 46,801

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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TRANSMIT THIS FORM WITH FEE(S)

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 28

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

APR 2 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David J. Corisis et al :
Application No. 09/819,874 :
Filed: March 28, 2001 :
Attorney Docket No. 3770.3US :

This is a decision on the petition, filed April 23, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 10, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

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APR 0 5 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
David J. Corisis et al :
Application No. 09/819,874 :
Filed: March 28, 2001 :
Attorney Docket No. 3770.3US(97-0332.2) :

This is a decision on the petition, filed April 2, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 12, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2826 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Jim Paul Haughwout	:	
Application No. 09/819,899	:	DECISION ON PETITION
Filed: March 29, 2001	:	TO WITHDRAW
Attorney Docket No. 06975-144001/MemberSer	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott R. Boalick, former attorney with the firm of Fish & Richardson, P.C.

Scott R. Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of

HAUGHWOUT, Jim P.
Application No. 09/819,899
Filed: March 29, 2001
Attorney Docket No. **06975-144001 / Member Ser**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, changed law firms and no longer employed at Fish & Richardson, does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 17
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JUL 17 2003

OFFICE OF PETITIONS

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN VA 22102

In re Application of
Mike Farwick et al
Application No. 09/819,930
Filed: March 29, 2001
Attorney Docket No. 021123-0278412

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 1, 2003, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on March 29, 2001, and was pending at the time of filing of the instant petition. A reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR 1.78(a)(2)(iii).

---

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior-filed nonprovisional application was submitted during the pendency of the instant nonprovisional application, for which the claim for benefit of priority is sought. *See* 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to Technology Center Art Unit 1652 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed nonprovisional Application No. 09/503,189, filed February 14, 2000.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARACADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAIL

JAN 2 5 2005

DI ... ICE
TECHN. ... ER 2600

In re application of:	:	
Stacey, et al.	:	
Application No. 09/819,941	:	DECISION ON REQUEST TO
Filed: March 27, 2001	:	WITHDRAW FROM RECORD
For: FLEXIBLE BUFFERING SCHEME FOR MULTI-RATE SIMD PROCESSOR	:	

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on September 23, 2004

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All Attorney/Agents associated with Customer Number 20350 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Kris V. Kalidindi, Esq.
Potomac Patent Group, PLLC
2010 Corporate Ridge, Suite 700
Mclean, VA 22102

#5

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/819,957	03/28/2001	JIANGLEI MA	NTL-3.2.145/3519 (12818ROUS03I)

CONFIRMATION NO.
4214

COBRIN & GITTES
750 Lexington Avenue, 21 Floor
New York NY 10022

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c) filed on 4/5/02 for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. X The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

The application **will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, PGPub Division, 703-308-2355.

Jon Lachel
Office of Patent Publication,
PGPub Division

MAIL

JUN 10 2002

Date Mailed: _____

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Rev. 10/01

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SMART & BIGGAR/FETHERSTONHAUGH & CO.
P O BOX 2999, STATION D
900-44 METCALFE STREET
OTTAWA, ON K1P 5Y6
CANADA

COPY MAILED

JAN 24 2007

OFFICE OF PETITIONS

In re Application of :
Jianglei Ma :
Application No. 09/819,957 : DECISION ON PETITION
Filed: March 28, 2001 :
Attorney Docket No. 71493-1326CIP/slr :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 21, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on August 22, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply to the Office action of June 21, 2004, (2) the petition fee of $750, and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 2634 for appropriate action by the Examiner in the normal course of business on the reply received February 16, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061116

DATE : November 16, 2006

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction on Patent No.: 09/819,984

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

JINGGE WU
PRIMARY EXAMINER

SPE: Jingge Wu **Art Unit** 2624

OCT 18 2006
IAP44
PATENT & TRADEMARK OFFICE

Attorney Docket No. 1293.1192

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Jong-ki HAN

Application No.: 09/819,984

Confirmation No.: 3707

Filed: March 29, 2001

U.S. Patent No.: 7,072,528

Issued: July 4, 2006

ATTENTION

CERTIFICATE OF CORRECTION

BRANCH

Batch No.:

For: CUBIC CONVOLUTION INTERPOLATING APPARATUS AND METHOD THEREOF

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Certificate
OCT 23 2006
of Correction

Sir:

Patentee(s) respectfully request(s) that a Certificate of Correction be issued in the subject patent, pursuant to 35 USC § 254 and 37 CFR § 1.322, to correct the error(s) shown on the attached Form PTO-1050. A check in the amount of $100 to cover the cost of the Certificate is attached.

One or more of the errors shown on the attached Form PTO-1050 is or are within the responsibility of the undersigned; each thereof is of a clerical or typographical nature or of minor character and occurred in good faith, and the correction thereof is consistent with the prosecution record.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 10/18/06

By: _____
William F. Herbert
Registration No. 31,024

10/19/2006 SZEWDIE1 00000113 7072528
01 FC:1811 100.00 OP

1201 New York Ave, N.W., 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501

OCT 23 2006

PTO/SB/ 44 (08-00)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,072,528

DATED : July 4, 2006

INVENTOR(S) : Jong-ki HAN

It is certified that error appears in the above-identified patent and that said Letters Patent are hereby corrected as shown below:

Column 11, line 27-28 approx. change "$\sum_{\forall i} E_i$" to --$\sum_{\forall i} E_i'$--

Column 11, line 33-34 approx., change "$\sum_{\forall i} E_i'$" to --$\sum_{\forall i} E_i$--

Column 13, line 52-53 approx., change "$\sum_{\forall i} E_i$" to --$\sum_{\forall i} E_i'$--

Column 13, line 57-58 approx. change "$\sum_{\forall i} E_i'$" to --$\sum_{\forall i} E_i$--

Column 15, line 3, change "intializes" to --initializes--

Column 15, line 52, change "subblocks." to --subblocks--

MAILING ADDRESS OF SENDER:
STAAS & HALSEY
1201 New York Avenue, N.W.
7th Floor
Washington, DC 20005

PATENT NO. 7,072,528

No. of add'l copies
@ 304 per page

OCT 23 2006

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SCHWEGMAN, LUNDBERG, WOESSNER
& KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402-0938

MAILED
JUL 07 2006
TECHNOLOGY CENTER 2100

In re Application of:
Brian M COLLINS et al.
Application No. 09/819,997
Filed: March 29, 2001
For: APPARATUS AND METHOD FOR ENHANCED CHANNEL ADAPTER PERFORMANCE THROUGH IMPLEMENTATION OF A COMPLETION QUEUE ENGINE AND ADDRESS TRANSLATION ENGINE

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a response to the Office action mailed on 06 December 2004. A Notice of Abandonment was not yet mailed.

A review of the file history indicates that the original Revocation and Power of Attorney filed on 16 March 2004 was not of record. On 17 June 2005, applicant provided a copy of the return receipt post card listing (1) Revocation and Power of Attorney and (2) Status Inquiry. The Return Acknowledgment Postcard has a USPTO stamp indicating receipt at the USPTO on 18 March 2004. Applicant also provided copy of the Revocation of Power of Attorney. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO" and M.P.E.P. § 402.05 states that "Revocation of power of attorney become effect on the date that the Revocation is RECEIVED in the Office (not on the date of ACCEPTANCE).

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to Technology Center Support Staff to re-mail the Office action mailed 06 December 2004.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3613

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
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PROCESSED BY
PG PUB DIVISION

JUL 0 3 2002

FINNEGAN, HENDERSON, FARABOW, GARRETT &
DUNNER LLP
1300 I STREET, NW
WASHINGTON DC 20005

Applicant: Gregory Plos
Appl. No.: 09/820,016
Filing Date: March 29, 2001
Title: COMPOSITIONS FOR THE OXIDATION DYEING OF KERATINOUS FIBERS COMPRISING AT LEAST ONE OXIDATION DYE AND AT LEAST ONE ENZYMATIC OXIDIZING AGENT, AND DYEING METHODS
Attorney Docket No.: 05725.0866-00
Pub. No.: US 2002/0013973 A1
Pub. Date: February 7, 2002

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on April 8, 2002 for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 5

Nokia Inc.
Attn: Wayne DeMello
6000 Connection Drive
Irving, TX 75039

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SEP 0 6 2002

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Wissing, et al.	:	
Application No. 09/820,029	:	ON PETITION
Filed: March 28, 2001	:	
Attorney Docket No. NC17377	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 16, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice To File Missing Parts Of Non-Provisional Application mailed May 7, 2001. The Notice set a period for reply of two(2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 8, 2001.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Office of Initial Patent Examination for further processing.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

Lee Hong Degerman Kang & Schmadeka
801 S. Figueroa Street, 14th Floor
Los Angeles, CA 90017

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NOV 1 0 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sam Nyol Hong :
Application No. 09/820,035 :
Filed: March 28, 2001 :
Attorney Docket No. 2080-3-10 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2003, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed May 7, 2001, which set a period for reply of Two (2) months from the mail date of the Notice. No extensions of time have been submitted. Accordingly, the application became abandoned on July 8, 2001.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Adam R. Schran	: DECISION ON REQUEST FOR
Patent Number	: 7603356	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/820,054	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/28/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1835** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6746777	2004-06-08	09820072	2001-03-28	PAT004US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/N. Stephan Kinsella/	Date (YYYY-MM-DD)	2008-08-11
Name	N. Stephan Kinsella	Registration Number	37657

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6746777
Issue Date: June 8,2004
Application No. 09820072
Filed: March 28,2001
Attorney Docket No. PAT004US

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 11,2008 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 11,2008 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

JJGJr.:11-02

Paper 8

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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NOV 2 7 2002

OFFICE OF PETITIONS

In re Application of
Sinkunas, et al
Application No. 09/820,092
Filed: 28 March; 2001
Attorney Docket No. 10541/279

DECISION ON PETITION

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47,[1] filed on 16 October, 2001, but not delivered to the Office of Petitions until this writing.

The Office regrets the delay in addressing this matter.

The petition is **DISMISSED**.[2]

NOTE: Any request for reconsideration of this decision must be submitted (with fee) within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response (with fee) should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)" and may include an oath or declaration executed by the inventor.

There will be no reconsideration thereafter. Failure to respond within the time set forth above will result in abandonment of the application.

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[1] The regulations at 37 C.F.R. §1.47 provide:
§1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).
[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

[2] Pursuant to Petitioner's authorization the petition fee ($130.00) and the proper extension of time fee due ($400.00) are charged, and the improper extension of time fee ($110.00) credited to Deposit Account 06-1500.

BACKGROUND

The record indicates:

- the application was filed on 28 March, 2001, without, *inter alia*, a fully executed oath or declaration;

- in response to a 13 June, 2001, Notice to File Missing Parts, Petitioner filed (over a 12 October, 2001, certificate of mailing) on 16 October, 2001:

  --a request and fee for a one- (1-) month extension of time (and authorization for additional fees, necessary because it required a two- (2-) month extension of time to make timely the filing),

  --the instant petition and fee,

  --a statement in support, and

  --an oath/declaration signed by inventors, save the estate representative Jason Bullock (Mr. Bullock) of deceased co-inventor Lawrence L. Bullock (the deceased inventor) under the provisions of 37 C.F.R. §1.42[3];

- the transmittal letter contained in the record does not evidence that a copy of the entire application (specification (description, claims, abstract) and drawings) were sent to non-signing co-inventors-representative Mr. Bullock;

- a call was made to the Counsel's office on 20 November, 2002, to review this matter with him and request the requisite evidence (i.e., transmittal letter) with such an explicit statement and evidence supporting the authority of Mr. Bullock to act in the representative capacity.

ANALYSIS

A copy of the entire application must be sent to the last known address of the non-signing inventor (or, as in this case, the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted. (Additionally,

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[3] The regulations at 37 C.F.R. §1.42 provide:
§1.42 When the inventor is dead.
In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.
[48 Fed.Reg, 2709, Jan.20, 1983, effective Feb.27, 1983]

Petitioner must state for the record that last known address. A forwarding address should be requested if the papers are returned, and other attempts to locate the inventor (e.g. through e-mail or the telephone) continue to fail, then applicant will have established that the inventor cannot be reached.)

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[4]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[4] See: MPEP 409.03(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFIC
WASHINGTON, D.C. 20231
www.uspto.go

JJGJr.:12-02

Paper 10

BRINKS HOFER
GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60611

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OFFICE OF PETITIONS

In re Application of
Sinkunas, et al
Application No. 09/820,092
Filed: 28 March, 2001
Attorney Docket No. 10541/279

: DECISION ON PETITION

This is a decision on the renewed petition under ¶(a) of 37 C.F.R. §1.47[1] filed via FAX on 18 December, 2002.

Petitioner has shown that, while all other inventors have signed the oath/declaration, the non-signing legal representative **Jason Bullock (Mr. Bullock)** of the deceased inventor Lawrence L. Bullock (under 37 C.F.R. §1.42[2]) has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Justin B. Rand (Reg. 48,552)

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[1] The regulations at 37 C.F.R. §1.47 provide:
§1.47 Filing when an inventor refuses to sign or cannot be reached.
(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).
[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

[2] The regulations at 37 C.F.R. §1.42 provide:
§1.42 When the inventor is dead.
In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.
[48 Fed. Reg. 2709, Jan.20,1983, effective Feb.27, 1983]

establishes that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that he sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.[3]

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being returned to Technology Center 1700 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[3] Pursuant to Petitioner's authorization, the petition fee ($130.00) for this renewed petition is charged to Deposit Account 23-1925.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 08-07

Paper No: __

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OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE PLC
P.O. BOX 8910
RESTON, VA 20195

In re Application of	:	
Hoffmann	:	DECISION
Application No.: 09/820,146	:	
Filing Date: 28 March, 2001	:	
Attorney Docket No. Hoffmann 3	:	

This is a decision on the petition filed on 13 November, 2006, to revive the instant application under 37 C.F.R. §1.137(a) as abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R.

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

§1.137(a) (as to unavoidable delay) or an alternative request for relief under 37 C.F.R. §1.137(b)[2] (as to unintentional delay) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)"; and/or "Petition under 37 C.F.R. §1.137(b)";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a non-final Office action mailed on 10 January, 2006, with reply due absent extension of time on or before 10 April 2006;
- the application went abandoned by operation of law after midnight 10 April, 2006;
- the Office mailed the Notice of Abandonment on 10 October, 2006;
- on 13 November, 2006, Petitioner submitted the instant petition and fee, an amendment after final as a reply, which the Examiner has indicated will be entered, and made a statement of unavoidable delay–averring therein that while Petitioner filed a Revocation/Power of Attorney and Change of address on 17 November, 2003, it appears that the Office did not enter that information of record.

The record further reflects that, following filing of the application, a Revocation/Power of Attorney was submitted on 31 January, 2003, and thereafter, resubmitted on 16 April, 2003, over the signatures of officers (Corporate Counsel and Managing Corporate Counsel) of the Assignee. The instruction set forth there was honored by the Office.

Indeed, however, the Office appears not to have entered a paper later filed by Petitioner in

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[2] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

November 2003–that condition appears to result from the fact that the Revocation/Power of Attorney submitted on 17 November, 2003, was signed not by an appropriate officer of the Assignee, but by one of the interim-appointed attorneys.

The Rules of Practice (37 C.F.R. Part 1) and the Commentary set forth in the Manual of Patent Examining Procedure (MPEP) speak to the revocation of power from and appointment of attorneys and agents by an applicant/patentee or the assignee of the entire interest in the application. (See: 37 C.F.R. §1.36 and MPEP §204.05 and §204.07)–but not to such authority by an attorney appointed in the interim.

Moreover–and notably–while the papers mailed by the Office in this matter on 2 July, 2004, on 21 September, 2004, on 21 April, 2005, and on 11 July, 2005, all were addressed to prior Counsel, they nonetheless appear to have reached Petitioner, who replied thereto.

Thus, even if there was an error by the Office–and at this writing the record appears silent to such–Petitioner appears to have taken no action of record to Notice or otherwise diligently and with due care[3] inform the Office of the alleged error in the mailing address or otherwise to re-advance its Revocation/Power of Attorney.

This does not appear to satisfy Petitioner's duty under Pratt.

Not only does it appear that there was questionable authority to file the November 2003 Revocation/Power of Attorney, but Petitioner appears then to have ignored from November 2003 until November 2006 the condition of which he now complains.

Such delay is not unavoidable.

Out of an abundance of caution, Petitioners always should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

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[3] The "due care" of a reasonably prudent person standard has been applied in deciding petitions under the "unavoidable delay" standard of 35 U.S.C 133. See *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912) ("the word 'unavoidable' is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business") (quoting and adopting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33); see also Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) ("in determining whether a delay.was unavoidable, one looks to whether the party.exercised the due care of a reasonably prudent person").

[4] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[5]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for

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§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[5] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

the reply now to be accepted on petition.[6]

Delays in responding properly raise the question whether delays are unavoidable.[7] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[8] And the Petitioner must be diligent in attending to the matter.[9] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner does not appear to have satisfied the "showing" requirements under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to

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[6] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[7] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[8] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[9] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[10] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Petitioner may wish to refer to the guidance (as to revival of abandoned applications) found at the Office website at http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse and/or review the guidance at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows:[11]

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[11] On July 15, 2005, the Central Facsimile (FAX) Number was changed to (571) 273-8300, which is the only facsimile number recognized for entralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[12] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[13]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
CARLSON, GASKEY & OLDS, P.C.
400 W MAPLE RD
SUITE 350
BIRMINGHAM MI 48009

[13] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

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HARNESS, DICKEY
& PIERCE PLC
P.O. BOX 8910
RESTON, VA 20195

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MAY 1 9 2008

OFFICE OF PETITIONS

In re Application of
Hoffmann
Application No.: 09/820,146
Filing Date: 28 March, 2001
Attorney Docket No. Hoffmann 3

DECISION

This is a decision on the petition filed on 25 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

PLEASE NOTE:

Once again Petitioner is reminded that papers previously submitted with as to revocation/power of attorney have not been entertained by the Office because Petitioner steadfastly has refused (apparently since November 2003) to comply with Office requirements for signature by an authorized officer of the averred assignee and a certificate under 37 C.F.R. §3.73(b).

Thus, there is no satisfactory indication that Petitioner herein was ever empowered to prosecute the instant application.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to a non-final Office action mailed on 10 January, 2006, with reply due absent extension of time on or before 10 April 2006.

The application went abandoned by operation of law after midnight 10 April, 2006.

The Office mailed the Notice of Abandonment on 10 October, 2006.

On 13 November, 2006, Petitioner submitted a petition (averring unavoidable delay) and fee, an amendment (which the Examiner has indicated will be entered), and made a statement of unavoidable delay–averring therein that while Petitioner filed a Revocation/Power of Attorney and Change of address on 17 November, 2003, it appears that the Office did not enter that information of record. The record further reflects that, following filing of the application, a Revocation/Power of Attorney was submitted on 31 January, 2003, and thereafter, resubmitted on 16 April, 2003, over the signatures of officers (Corporate Counsel and Managing Corporate Counsel) of the Assignee. The instruction set forth there was honored by the Office, and the Harness Dickey address was entered. However, the Office did not enter a paper filed by Petitioner in November 2003–because the Revocation/Power of Attorney submitted on 17 November, 2003, was signed not by an appropriate officer of the Assignee, but by one of the interim-appointed attorneys. (The Rules of Practice (37 C.F.R. Part 1) and the Commentary set forth in the Manual of Patent Examining Procedure (MPEP) speak to the revocation of power from and appointment of attorneys and agents by an applicant/patentee or the assignee of the entire interest in the application. (See: 37 C.F.R. §1.36 and MPEP §204.05 and §204.07)–but not to such authority by an attorney appointed in the interim.) Moreover–and notably–while the

papers mailed by the Office in this matter on 2 July, 2004, on 21 September, 2004, on 21 April, 2005, and on 11 July, 2005, all were addressed to prior Counsel, they nonetheless appear to have reached Petitioner, who replied thereto. Thus, Petitioner appeared to have taken no action of record to Notice or otherwise diligently and with due care properly inform the Office or otherwise to re-advance its Revocation/Power of Attorney properly under the rules—and so the petition was dismissed on 27 August, 2007.

On 31 October, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2611 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
CARLSON, GASKEY & OLDS, P.C.
400 W MAPLE RD
SUITE 350
BIRMINGHAM MI 48009

---

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Gregory J. Kirsch
Needle & Rosenberg, P.C.
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

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OFFICE OF PETITIONS

In re Application of	:	
ZYGMONT, et al.	:	DECISION ON PETITION
Application No.: 09/820,185	:	
Filed: March 28, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 15104.0001U2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 10, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the non-final Office action mailed May 19, 2004, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 20, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a request for reconsideration and remarks; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of May 19, 2004 is accepted as having been unintentionally delayed.

The application is being referred to Technology Center AU 2122.

Telephone inquires concerning this decision should be directed to Derek A. Putonen at (571) 272-3294 or in his absence, the undersigned at (571) 272-3217

Frances Hickson for
Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Dorsey & Whitney, LLP
Intellectual Property Department
Suite 1500
50 South Sixth Street
Minneapolis, MN 55402-1498

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OFFICE OF PETITIONS

In re Application of	:	
Terry L. McMahon et al.	:	
Application No. 09/820,223	:	DECISION ON
Filed: March 28, 2001	:	PETITION TO WITHDRAW
Attorney Docket No. 6714.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Min S. Xu on behalf of attorney/agents associated with customer number 25763. All attorneys/agents associated with customer number 25763 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the inventor at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Terry L. McMahon
7917 65th Avenue North
Brooklyn Park, MN 55428

cc: General Electric Company
GE Global Patent Operation
P.O. Box 861
2 Corporate Drive, Suite 648
Shelton, CT 06484

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/820,223	03/28/2001	Terry L. McMahon	6714.01

CONFIRMATION NO. 2165

POWER OF ATTORNEY NOTICE

25763
DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 1500
50 SOUTH SIXTH STREET
MINNEAPOLIS, MN 55402-1498

OC000000036584969

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/11/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
www.uspto.gov

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MARILYN R. KHORSANDI
KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA CA 91101-4710

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OFFICE OF PETITIONS

In re Application of
Williams et al.
Application No. 09/820,292
Filed: March 27, 2001
For: Apparatus, Systems and Methods for Online, Multi-Parcel, Multi-Carrier, Multi-Service Parcel Returns Shipping Management

DECISION DISMISSING PETITION

Petitioner argues that there is a conflict between the provisions of 37 CFR 1.217 and the provisions of 37 CFR 1.8 because 37 CFR 1.8(a)(2) does not indicate that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217, although 37 CFR 1.217(e) does indicate that the provisions of 37 CFR 1.8 do not apply to 37 CFR 1.217. Alternatively, petitioner argues that since there is a conflict between the rules and there was no harm caused in the timing of the review of the Request for Redacted Publication that the rules should be suspended under 37 CFR 1.183.

The petition is **DISMISSED**.

37 CFR 1.217(e) indicates that "the provisions of [37 CFR] 1.8 do not apply to the time periods set forth in this section." 37 CFR 1.8 does not state that its provisions apply to the time periods set forth in 37 CF R 1.217. Therefore, there is no conflict between the provisions of 37 CFR 1.8 and the provisions of 37 CFR 1.217.

While 37 CFR 1.8(a)(2) does not indicate that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217, such a statement is unnecessary as 37 CFR 1.217(e) expressly states that the provisions of 37 CFR 1.8 do not apply to 37 CFR 1.217. It is not a "conflict" to state that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217 only once in the rules of practice (in 37 CFR 1.217(e)), and it is not necessary to state a provision (that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217) twice in the rules of practice (in 37 CFR 1.217(e) and again in 37 CFR 1.8(a)(2)).

Finally, any doubt as to whether the provisions of 37 CFR 1.8 apply to the time periods set forth in 37 CFR 1.217(a), (c), and (d) may be resolved by reviewing the final rule to implement the eighteen-month publication of patent applications:

> Comment: One comment suggested that the certificate of mailing provisions of § 1.8 should apply to the filing of materials relating to submission of a redacted copy of an application for publication (§ 1.217).

> Response: Since the redacted copy of an application for publication must be submitted via EFS (and not via the mail), the certificate of mailing practice set forth in § 1.8 is inapplicable to the submission of a redacted copy of an application for publication. In view of the significant burden that filing a redacted copy of an application for publication places on the Office, the Office considers it appropriate to require such an applicant to provide the Office with the document necessary for processing the application by means that ensure that such documents are promptly received in the Office.

See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57048 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63, 85 (Oct. 10, 2000) (final rule) (comment 68 and response).

The salient points remains that a register practitioner is expected to be aware of all of the provisions of the rules of practice. Petitioner's argument that the USPTO should have stated in 37 CFR 1.8(a)(2) that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217 does not warrant a waiver of the provision of 37 CFR 1.217(e) that 37 CFR 1.8 does not apply to 37 CFR 1.217. See Gustafson v. Stange, 227 USPQ 174, 175 (Comm'r Pats. 1985) (that 37 CFR 1.304 does not indicate that the provisions of 37 CFR 1.8(a) does not apply to 37 CFR 1.304 is immaterial as 37 CFR 1.8(a) provides the provisions of 37 CFR 1.8(a) does not apply to 37 CFR 1.304 and a registered practitioner is expected to know all of the rules of practice).

Petitioner argues 37 CFR 1.217(c) does not require that the hard copies be received by the Office or "filed" in the Office, within the sixteen month deadline. Petitioner argues that the rule only requires that the hard copies be "concurrently submitted in paper" and that the hard copy submission was timely concurrently submitted because the hard copies were submitted on the same day as the timely electronic filing with a § 1.8 certificate of mailing. The rule states that the "redacted copy of the application in compliance with this section" must be filed within sixteen months after the earliest filing date for which a benefit is sought to have a publication of a redacted application. Since the hard copies must be concurrently submitted, they must also be filed within the sixteen month time frame, as it is part of the submission to the Office. Since 37 CFR 1.217(e) specifically excludes the provisions of § 1.8 to the provisions of this section, it does not apply for the submission of the hard copies.

Petition under 37 C.F.R. § 1.183

Suspension of the rules under 37 C.F.R. § 1.183 may be granted only "[i]n an extraordinary situation, when justice requires ...." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Commissioner of Patents and Trademarks. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of §1.183. Petitioner has not established any special circumstances or equities that would require suspension of the rules in the interests of justice.

There is no adequate showing that petitioner was faced with a conflict between two rules, as the rules are not in conflict. 37 CFR 1.217, publication of a redacted copy of an application, specifically excludes the use of § 1.8 to timely respond to the time periods set forth therein. Petitioner has not provided any evidence that she was prevented from filing the hard copy of the redacted papers before the expiration of the sixteen month period or that the papers could not have been filed by express mail (37 CFR 1.10). Thus, in weighing the contribution of Petitioner toward her failure to realize that the certificate of mailing practice does not apply to the time periods set forth for redacted publications against any other contributing factor,

waiver of the exclusion of § 1.8 practice for redacted publications of 37 C.F.R. § 1.217(c) pursuant to 37 C.F.R. § 1.183 in this situation is not justified. Additionally, the lack of any harm to the Office due to applicant's failure to appreciate that a certificate of mailing could not be used does not demonstrate that justice requires waiver of the rules of practice. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *United States v. Lockheed Petroleum Servs.*, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

The application is being returned to Technology Center 2100 for further examination.

Telephone inquiries regarding this communication should be directed to Mark Polutta at (703)308-8122.

Karin Tyson
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA, CA 91101-4710

Mail Date: 04/21/2010

Applicant	: Daniel F. Williams	: DECISION ON REQUEST FOR
Patent Number	: 7660721	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/820,292	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/27/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1525** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WASHINGTON, D.C. 20231
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Paper No. 4

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OFFICE OF PETITIONS

KLAUBER & JACKSON
411 HACKENSACK AVENUE
4TH FLOOR
HACKENSACK, NJ 07601

In re Application of
Young et al.
Application No. 09/820,320
Filed: March 28, 2001
Attorney Docket No. 1304-1-019CIP1

DECISION GRANTING PETITION

This is a decision on the petition, filed on August 20, 2001, in effect requesting that a Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed on June 27, 2001 for the above-identified application, be partially withdrawn to the extent that it refers to an omitted page of specification.

The petition is **DISMISSED.**

This application was filed on March 28, 2001. On June 27, 2001, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that a filing date had been accorded the application, that the declaration was not signed, that the statutory basic filing fee and the extra claims fee for this application were missing, that substitute drawings in compliance with 37 CFR 1.84 with respect to margins were required, and that page 35 of the specification appeared to have been omitted from the filed application.

In response, the present petition was filed wherein Petitioners contend that page 35 of the specification was in fact filed with other application papers on March 28, 2001, as is supported by the accompanying copy of Applicants' postcard receipt for this application. This postcard indicates receipt by the PTO on March 28, 2001 of, *inter alia*, 307 pages of "application for patent." The petition also encloses a "copy" of pages 1-40 of the specification, including a page 35 allegedly filed on March 28, 2001.

A postcard receipt which itemizes and properly identifies the papers being filed would serve as *prima facie* evidence of receipt in the USPTO of **all the items listed thereon** on the date stamped thereon by the USPTO.[1] The *prima facie* showing established by a postcard receipt is, of course, rebuttable and findings of fact in each case must be based on a consideration of all of the evidence in the official file. A review of the official file for this application shows that Applicants indeed filed a total of 307 pages on March 28,2001: pages 1-**34**, **36**-307, and an **extra page 200** labeled as "TABLE 13 (continued)." Thus, Applicants' postcard receipt may be *prima facie* evidence of receipt by the PTO of **307 total pages, rather than 307 pages including page 35** Accordingly, the Office concludes that page 35 was omitted from the application filed on March 28, 2001, and that an extra page 200 was inadvertently filed in its place.

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[1] MPEP section 503 (Aug. 2001). See also 37 CFR 1.6 (Receipt of correspondence).

Alternatively, Petitioners argue that page 35 is entitled to the March 28, 2001 filing date because it is "merely descriptive of Figures 39-48[2] . . . and particularly of that which is provided in the description in Example 19 on pages 264-266 of the Specification[3]" and thus contains no new matter. However, the "substitute" page 35 submitted with the present petition will not be entered since it was not present in the March 28, 2001 application. Applicants may submit a replacement of the original page 35 in the form of an amendment for consideration by the examiner to determine whether it contains new matter in relation to the March 28, 2001 Specification and drawings.

In view of the above, the Notice mailed on June 27, 2001 was correct and will not be withdrawn as it pertains to omitted page 35. The petition is thus dismissed. The petition fee will not be refunded.

The application is being returned to OIPE for further processing with a filing date of March 28, 2001, using the papers filed on that date.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[2] Petition, page 3, lines 3-5.

[3] Petition, page 3, lines 9-12.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

Dennis M. de Guzman
BLAKELY, SOKOLOFF, TAYLOR &
ZAFMAN, LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1026

MAILED

JUN 22 2006

Technology Center 2100

In re Application of:
Pavitra Subramaniam et al.
Application No. 09/820,333
Filed: March 28, 2001
For: ENGINE TO PRESENT A USER INTERFACE BASED ON A LOGICAL STRUCTURE, SUCH AS ONE FOR A CUSTOMER RELATIONSHIP MANAGEMENT SYSTEM, ACROSS A WEB SITE

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 18, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. **The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others**. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 **further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

The signer of the petition, Marina Portnova is not appointed as an attorney or agent of record. Therefor she is not authorized to act on behalf of the attorneys or record, nor can she effect a change of address.

There is no indication that Applicant has been notified of the request for withdrawal.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

All future communications from the Office will be directed to the above-listed address until otherwise notified by applicant.

For James R. Matthews

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

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JONATHAN N. GELD
CAMPBELL STEPHENSON ASCOLESE LLP
4807 SPICEWOOD SPRINGS RD., BLDG 4
SUITE 201
AUSTIN, TX 78759

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AUG 28 2006
OFFICE OF PETITIONS

In re Application of :
Pavitra Subramaniam et al :
Application No. 09/820,333 : ON PETITION
Filed: March 28, 2001 :
Attorney Docket No. OIC0059US

This is a decision on the petition filed, August 17, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 2, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2179 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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MARILYN R. KHORSANDI
KHORSANDI PATENT LAW GROUP, A.L.C.
140 S. LAKE., SUITE 312
PASADENA CA 91101-4710

#8

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MAR 0 6 2002

OFFICE OF PETITIONS

In re Application of
Williams et al.
Application No. 09/820,377
Filed: March 27, 2001
For: Apparatus, Systems and Methods for Online, Multi-Parcel, Multi-carrier, Multi-Service Enterprise Parcel Shipping Management

DECISION DISMISSING PETITION

Petitioner argues that there is a conflict between the provisions of 37 CFR 1.217 and the provisions of 37 CFR 1.8 because 37 CFR 1.8(a)(2) does not indicate that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217, although 37 CFR 1.217(e) does indicate that the provisions of 37 CFR 1.8 do not apply to 37 CFR 1.217. Alternatively, petitioner argues that since there is a conflict between the rules and there was no harm caused in the timing of the review of the Request for Redacted Publication that the rules should be suspended under 37 CFR 1.183.

The petition is **DISMISSED**.

37 CFR 1.217(e) indicates that "the provisions of [37 CFR] 1.8 do not apply to the time periods set forth in this section." 37 CFR 1.8 does not state that its provisions apply to the time periods set forth in 37 CF R 1.217. Therefore, there is no conflict between the provisions of 37 CFR 1.8 and the provisions of 37 CFR 1.217.

While 37 CFR 1.8(a)(2) does not indicate that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217, such a statement is unnecessary as 37 CFR 1.217(e) expressly states that the provisions of 37 CFR 1.8 do not apply to 37 CFR 1.217. It is not a "conflict" to state that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217 only once in the rules of practice (in 37 CFR 1.217(e)), and it is not necessary to state a provision (that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217) twice in the rules of practice (in 37 CFR 1.217(e) and again in 37 CFR 1.8(a)(2)).

Finally, any doubt as to whether the provisions of 37 CFR 1.8 apply to the time periods set forth in 37 CFR 1.217(a), (c), and (d) may be resolved by reviewing the final rule to implement the eighteen-month publication of patent applications:

> Comment: One comment suggested that the certificate of mailing provisions of § 1.8 should apply to the filing of materials relating to submission of a redacted copy of an application for publication (§ 1.217).

> Response: Since the redacted copy of an application for publication must be submitted via EFS (and not via the mail), the certificate of mailing practice set forth in § 1.8 is inapplicable to the submission of a redacted copy of an application for publication. In view of the significant burden that filing a redacted copy of an application for publication places on the Office, the Office considers it appropriate to require such an applicant to provide the Office with the document necessary for processing the application by means that ensure that such documents are promptly received in the Office.

See Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57048 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office 63, 85 (Oct. 10, 2000) (final rule) (comment 68 and response).

The salient points remains that a register practitioner is expected to be aware of all of the provisions of the rules of practice. Petitioner's argument that the USPTO should have stated in 37 CFR 1.8(a)(2) that the provisions of 37 CFR 1.8(a) do not apply to 37 CFR 1.217 does not warrant a waiver of the provision of 37 CFR 1.217(e) that 37 CFR 1.8 does not apply to 37 CFR 1.217. See Gustafson v. Stange, 227 USPQ 174, 175 (Comm'r Pats. 1985) (that 37 CFR 1.304 does not indicate that the provisions of 37 CFR 1.8(a) does not apply to 37 CFR 1.304 is immaterial as 37 CFR 1.8(a) provides the provisions of 37 CFR 1.8(a) does not apply to 37 CFR 1.304 and a registered practitioner is expected to know all of the rules of practice).

Petitioner argues 37 CFR 1.217(c) does not require that the hard copies be received by the Office or "filed" in the Office, within the sixteen month deadline. Petitioner argues that the rule only requires that the hard copies be "concurrently submitted in paper" and that the hard copy submission was timely concurrently submitted because the hard copies were submitted on the same day as the timely electronic filing with a § 1.8 certificate of mailing. The rule states that the "redacted copy of the application in compliance with this section" must be filed within sixteen months after the earliest filing date for which a benefit is sought to have a publication of a redacted application. Since the hard copies must be concurrently submitted, they must also be filed within the sixteen month time frame, as it is part of the submission to the Office. Since 37 CFR 1.217(e) specifically excludes the provisions of § 1.8 to the provisions of this section, it does not apply for the submission of the hard copies.

Petition under 37 C.F.R. § 1.183

Suspension of the rules under 37 C.F.R. § 1.183 may be granted only "[i]n an extraordinary situation, when justice requires ...." The rule places the determination of whether a situation is "extraordinary," and whether justice requires waiver, within the discretion of the Commissioner of Patents and Trademarks. *Nitto Chem. Indus. Co. v. Comer,* 39 USPQ2d 1778, 1780 n.4 (D.D.C. 1994). The facts presented on the record do not establish an extraordinary situation within the meaning of §1.183. Petitioner has not established any special circumstances or equities that would require suspension of the rules in the interests of justice.

There is no adequate showing that petitioner was faced with a conflict between two rules, as the rules are not in conflict. 37 CFR 1.217, publication of a redacted copy of an application, specifically excludes the use of § 1.8 to timely respond to the time periods set forth therein. Petitioner has not provided any evidence that she was prevented from filing the hard copy of the redacted papers before the expiration of the sixteen month period or that the papers could not have been filed by express mail (37 CFR 1.10). Thus, in weighing the contribution of Petitioner toward her failure to realize that the certificate of mailing practice

does not apply to the time periods set forth for redacted publications against any other contributing factor, waiver of the exclusion of § 1.8 practice for redacted publications of 37 C.F.R. § 1.217(c) pursuant to 37 C.F.R. § 1.183 in this situation is not justified. Additionally, the lack of any harm to the Office due to applicant's failure to appreciate that a certificate of mailing could not be used does not demonstrate that justice requires waiver of the rules of practice. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable due care and diligence. *United States v. Lockheed Petroleum Servs.*, 709 F.2d 1472, 1475 (Fed. Cir. 1983).

The application is being returned to Technology Center 2100 for further examination.

Telephone inquiries regarding this communication should be directed to Mark Polutta at (703)308-8122.

Karin Tyson
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
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JAN 16 2003

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Group 3600

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Suite 301
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In re Application of Joseph H. Holland, et.al. SERIAL NO: 09/820,410 FILED: March 29, 2001 FOR: METHOD AND APPARATUS FOR MANAGING SUPPLY AND DEMAND IN A STRUCTURED ENVIRONMENT	: : : :	DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 26, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED.**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request required that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms.

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40© above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

09/820,410

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions (A) and (B) above.

As to condition (A), it is not clear if all attorneys are withdrawing. The request states "I request permission to withdraw."

As to condition (B), the reason for withdrawal is insufficient since a copy of the assignment or statement under 37CFR 3.73(b) have not been filed. Power of Attorney was given by the inventors. The inventors are therefore the client until documentation is provided to show otherwise.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703)-308-0866
Facsimile No.: (703) 605-0586

Rjb:1/10/03

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RALEIGH, NC 27627

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OFFICE OF PETITIONS

In re Application of :
HEIMBAUGH, Mark :
Application No. 09/820,415 :
Filed: March 29, 2001 :
Attorney Docket No. 3123-347/9458-109(STL07) :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 2007 and re-submitted April 17, 2008, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 31, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is July 1, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the

delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (more than three (3) years) in resuming prosecution, there is a

question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on July 1, 2004. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over three (3) years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse

the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2160 extension of time fee submitted with the petition on May 31, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

CC: TEJPAL S. HANSRA
HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

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OFFICE OF PETITIONS

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P.O. BOX 37428
RALIEGH, NC 27627

In re Application of	:	
HEIMBAUGH, Mark	:	
Application No. 09/820,415	:	DECISION ON PETITION
Filed: March 29, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 3123-347/9458-109(STL07)	:	

CORRECTED DECISION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), originally July 5, 2005 and re-submitted July 26, 2007 and April 17, 2008, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 31, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is July 1, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2651 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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DAVID K. LUCENTE; SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT. - COL2LGL
389 DISC DRIVE
LONGMONT, CO 80503

Mail Date: 04/21/2010

Applicant	: Mark Heimbaugh	: DECISION ON REQUEST FOR
Patent Number	: 7633702	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/820,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2105** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
David Bar-Or et al	:	
Application No. 09/820,416	:	
Filed: March 29, 2001	:	
Attorney Docket No. 4172-15-1	:	

This is a decision on the petition, filed March 31, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 31, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The examiner of Technology Center AU 1645 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
MARGARET M. WALL
SWANSON & BRATSCHUN
1745 SHEA CENTER DRIVE, SUITE 330
HIGHLANDS RANCH, CO 80129

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

#7

MAILED

SEP 0 4 2002

Office of the Director
Group 3600

Neil F. Maloney
FENWICK & WEST
Two Palo Alto Square
Palo Alto, CA 94306

In re application of :
John M. Mela :
Application No. 09/820,429 :
Filed: March 28, 2001 :
For: BOUNCEBACK DETECTION IN :
ONLINE PRODUCT CONFIGURATION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on February 26, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions C) and D) above. There is no indication for the reason of withdrawal. Also there is no indication that the applicant or patent owner was notified of the withdrawal.

In summary, the request is **NOT APPROVED**.

Kenneth A. Dunn for

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SM/SM; 8/13/02

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Carr & Ferrell, LLP
2225 East Bayshore Road
Suite 200
Palo Alto, CA 94303

MAILED

MAR 20 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

In re application of
John M. Mela
Application No. 09/820,429 :
Filed: March 28, 2001 :
For: BOUNCEBACK DETECTION IN ONLINE PRODUCT CONFIGURATION :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on January 21, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED as MOOT**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the power of attorney has already been changed as per the Notice regarding Change of Power of Attorney mailed March 12, 2003.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868
Facsimile No.: (703) 605-0586

SNM/tpl: 3/12/03

cc: Fenwick & West, LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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Paper No. 14

Audley A. Ciamporcero, Jr.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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JUN 0 3 2003

OFFICE OF PETITIONS

In re Application of
J. Guy Breitenbucher, et al.
Application No. 09/820,438
Filed: March 29, 2001
Attorney Docket No. ORT-1396

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2003, to revive the above-identified application.

The petition is DISMISSED-AS-MOOT.

Since the response filed May 6, 2003 is considered timely in view of the accompanying 3-month extension of time, no petition to revive under 37 CFR 1.137(b) is necessary. Accordingly, the $1,300 petition fee is being refunded to counsel's deposit account no. 10-0750.

Telephone inquiries concerning this matter may be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1624.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

Sherry Brinkley
Petitions Examiner

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1 21 2004

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Paper No. 13

Stradling Yocca Carlson and Rauth
Suite 1600
660 Newport Center Drive
P.O. Box 7680
Newport Beach, CA 92660

In re Application of Thomas H. Campbell et al Serial No. : 09/820,441 Filed : March 28, 2001 For : Thermography Catheter	: DECISION ON PETITION : TO WITHDRAW : HOLDING OF : ABANDONMENT

This is a decision on petitioner's request filed September 12, 2003 to review the holding of abandonment mailed July 1, 2003 for failure to respond to the Office action mailed November 19, 2002. The basis for the request is that applicant did not receive the communication mailed November 19, 2002. There is no fee required for this petition.

In order to overcome the presumption of delivery of an Office action, a practitioner must submit the following: (1) a statement from the practitioner stating that the Office action was not received by practitioner; (2) a statement attesting to the fact that a search of the file jacket and docket record indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed. See 1156 OG 53.

The request filed September 12, 2003 includes all the above elements. In addition, a review of the file reveals that, as discovered by petitioner during the status inquiries made between February 26, 2003 and May 21, 2003, the Office action in question was mailed to an incorrect address. The records of the Office have been corrected to reflect the proper attorney of record and correspondence address. The request is therefore GRANTED. Upon the mailing of this decision, the application will be forwarded to the Legal Instruments Examiner for the remailing of the Office action of November 19, 2002, which action will set a new shortened statutory period for response.

In view of the granting of the petition to withdraw the holding of abandonment, the request that the instant petition be considered, in the alternative, under 37 CFR 1.137(b) is hereby dismissed as being moot.

Summary: Holding of Abandonment Withdrawn.
Petition to Revive under 37 CFR 1.137(b) dismissed.

John E. Kittle, Director
Groups 3730 and 3760
Phone: (703) 308-0873
ak/1/14/04

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C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Ullman, et al.	:	
Application No. 09/820,502	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. AUS920010164US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 30, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 31, 2005 for failure to timely reply.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

With respect to (1) above, it appears that the amendment filed with the petition belongs in another application. The amendment is in reply to the final rejection mailed in Application No. 09/820,510. Please clarify whether or not the amendment filed with the present petition is the intended reply. If it is not, then an appropriate reply should be filed with any reconsideration petition.

With respect to (3) above, there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioners should note that the issue is not whether some of the delay was unintentional by any party; rather, the

issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 30, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, the responsible counsel of record at the time of abandonment should explain why this application became abandoned while it was under his control and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which

clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicants/party in interest first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicants/party in interest.

In either instance, petitioners' failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is noted that the attorney signing the petition and the statement of unintentional delay appears to have only recently (February 16, 2007) become involved with the application.

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicants/party in interest first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicants/party in interest.

In either instance, petitioners' failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is noted that the attorney signing the petition and the statement of unintentional delay appears to have only recently (February 16, 2007) become involved with the application.

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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C/O YEE & ASSOCIATES PC
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DALLAS TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Ullman, et al.	:	
Application No. 09/820,502	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. AUS920010164US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 30, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 31, 2005 for failure to timely reply.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3).

With respect to (1) above, it appears that the amendment filed with the petition belongs in another application. The amendment is in reply to the final rejection mailed in Application No. 09/820,510. Please clarify whether or not the amendment filed with the present petition is the intended reply. If it is not, then an appropriate reply should be filed with any reconsideration petition.

With respect to (3) above, there are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioners should note that the issue is not whether some of the delay was unintentional by any party; rather, the

clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicants/party in interest first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicants/party in interest.

In either instance, petitioners' failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is noted that the attorney signing the petition and the statement of unintentional delay appears to have only recently (February 16, 2007) become involved with the application.

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The centralized facsimile number is **(571) 273-8300.**

issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on March 30, 2005. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, the responsible counsel of record at the time of abandonment should explain why this application became abandoned while it was under his control and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s) and whoever else was involved with this application at the time of abandonment. Statements are required from responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which

clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicants/party in interest first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicants/party in interest.

In either instance, petitioners' failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

It is noted that the attorney signing the petition and the statement of unintentional delay appears to have only recently (February 16, 2007) become involved with the application.

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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AUG 05 2008

In re Application of :
Ullman, et al. :
Application No. 09/820,502 : ON PETITION
Filed: March 29, 2001 :
Attorney Docket No. AUS920010164US1 :
For: METHOD AND SYSTEM FOR NETWORK MANAGEMENT CAPABLE OF IDENTIFYING SOURCES OF SMALL PACKETS

This is a decision on the reconsideration petition, filed March 24, 2008, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the December 30, 2004 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on March 31, 2005. A Notice of Abandonment was mailed on October 18, 2005.

Applicants have submitted an amendment in reply to the December 30, 2004 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 30, 2004 non-final Office action, and the $1,540.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 2151 for consideration of the amendment filed on March 24, 2008.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER
BOX 161
6110 CENTER HILL AVE
CINCINNATI OH 45224

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JAN 0 3 2006

OFFICE OF PETITIONS

In re Application of	:
Bakes, et al.	: DECISION GRANTING PETITION
Application No. 09/820,504	: AND WITHDRAWING THE
Filed: March 29, 2001	: HOLDING OF ABANDONMENT
Attorney Docket No. 9116/552	:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT", filed December 2, 2005, which is being treated as a petition under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed February 10, 2005. This Office action, a Restriction Requirement, set a one month extendable period for applicants to submit a response, electing an invention to be examined. A review of the application file reveals that applicants submitted a response on March 10, 2005, electing, with traverse, to prosecute the invention designed in the Office action as Invention I (Claims 1 - 6). Nevertheless, a Notice of Abandonment was mailed on September 2, 2005.

As set forth above, applicants did timely file a response to the February 10, 2005 Office action.

Accordingly, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to Group Art Unit 3627 for consideration of the response filed March 10, 2005.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

John P. Ward
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

MAIL

JUN 0 3 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
HUANG et al.
Application No. 09/820,509
Filed: March 28, 2001
For: METHOD AND SYSTEM FOR DIRECT SERVER SYNCHRONIZATION WITH A COMPUTING DEVICE

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed May 12, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DENIED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with

> the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.
>
> In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

The petition is deficient in that it does not meet criterion (b) above because it does not state that an election will be made without traverse.

Accordingly, the Petition is **DENIED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

John P. Ward
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

MAILED

SEP 2 4 2003

Technology Center 2100

In re Application of:
HUANG et al.
Application No. 09/820,509
Filed: March 28, 2001
For: METHOD AND SYSTEM FOR DIRECT SERVER SYNCHRONIZATION WITH A COMPUTING DEVICE

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the request for reconsideration, filed August 1, 2003 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

(c) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, ***applicant will be notified and the defects in the request will be stated***. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Applicant's submission meets all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025-1026

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Huang, et al.	:	
Application No. 09/820,509	:	DECISION ON PETITION
Filed: March 28, 2001	:	TO WITHDRAW
Attorney Docket No. 5306.P007	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

There is an outstanding Office action that was mailed on June 26, 2006 that requires a response from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

Paper No.

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

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MAR 04 2008

OFFICE OF PETITIONS

In re Application of Lorin Evan Ullmann et al. Application No. 09/820,510 Filed: March 29, 2001 Attorney Docket Number: AUS920010165US1 Title: METHOD AND SYSTEM FOR NETWORK MANAGEMENT PROVIDING ACCESS TO APPLICATION BANDWIDTH USAGE CALCULATIONS	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)[1], filed on November 15, 2007, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed July 11, 2005, which set a

---

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no response was received. Accordingly, the above-identified application became abandoned on October 12, 2005. A notice of abandonment was mailed on February 7, 2006.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further submitted an amendment that has been considered by the Examiner.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR (RM. 3J-219)
101 CRAWFORDS CORNER ROAD
HOLMDEL, NJ 07733-3030

COPY MAILED

SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of	:
Alex Ruan & Christopher L. Rutledge	:
Application No. 09/820,513	:DECISION GRANTING STATUS
Filed: March 29, 2001	:UNDER 37 CFR 1.47(b)
Attorney Docket No. 1-1	:

This is in response to the "Petition Under 37 CFR 1.47(b)," filed August 13, 2001.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding this decision should be directed to Karen Creasy at (703) 305-8859.

This application is being forwarded to the Office of Initial Patent Examination for further examination.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

CHRISTOPHER L. RUTLEDGE
39 SUYDAM ROAD
SOMERSET, NJ 08873

COPY MAILED

SEP 1 0 2001

OFFICE OF PETITIONS

In re Application of
Alex Ruan & Christopher L. Rutledge
Application No. 09/820,513
Filed: March 29, 2001
For: DYNAMIC PASSIVE OPTICAL NETWORK (PON) USING A DISTRIBUTED OPTICAL CROSS CONNECT AND DENSE WAVELENGTH DIVISION MULTIPLEXING

Dear Mr. Rutledge:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-8859. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR (RM. 3J-219)
101 CRAWFORDS CORNER ROAD
HOLMDEL, NJ 07733-3030

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

ALEX RUAN
5330 LEXINGTON WOODS LANE
ALPHARETA, GA 30005

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SEP 1 0 2001
OFFICE OF PETITIONS

In re Application of
Alex Ruan & Christopher L. Rutledge
Application No. 09/820,513
Filed: March 29, 2001
For: DYNAMIC PASSIVE OPTICAL NETWORK (PON) USING A DISTRIBUTED OPTICAL CROSS CONNECT AND DENSE WAVELENGTH DIVISION MULTIPLEXING

Dear Mr. Ruan:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-8859. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

LUCENT TECHNOLOGIES INC.
DOCKET ADMINISTRATOR (RM. 3J-219)
101 CRAWFORDS CORNER ROAD
HOLMDEL, NJ 07733-3030

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Commissioner for Patents
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Paper No. 10

Amin & Turocy
24 Fl. National City Center
1900 E. 9th Street
Cleveland, OH 44114

COPY MAILED

APR 1 6 2003

OFFICE OF PETITIONS

In re Application of :
Eric Horvitz :
Application No. 09/820,519 :
Filed: March 29, 2001 :
Attorney Docket No. MS91212.1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 10, 2001, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 11, 2001.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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MAIL

Paper No. 7

OCT 27 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

FISH & RICHARDSON P.C.
45 Rockefeller Plaza
Suite 2800
New York, NY 10111

In re Application of
Kazutoyo MAEHIRO
Application No. 09/820,530
Filed: March 29, 2001
For: MEHTOD AND APPARATUS FOR JOINING ELECTRONIC CONFERENCE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed October 23, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on August 7, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Greenblum & Bernstein as the attorneys of record of the instant application. The Power Of Attorney of August 7, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Greenblum & Bernstein.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: GREENBLUM & BERNSTEIN P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: FEB - 7 2003

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Paper No. 6

In re application of	:	
Vipin C. Kalia et al.	:	
Serial No. 09/820,538	:	DECISION ON
Filed: March 29, 2001	:	PETITION
For: RAPID METHOD FOR ESTIMATION OF	:	
CHEMICAL DEMAND	:	

This is a decision on the SUBMISSION OF FORMAL DRAWINGS AND PETITION TO ACCEPT COLOR PHOTOGRAPHS UNDER 37 C.F.R. § 1.84(b)(2), filed March 29, 2001 to permit color photographs since (1) the fee as required by 37 CFR 1.17(h) has been authorized, (2) three sets of the color photographs have been filed, (3) the specification includes the language set forth in 37 CFR 1.84(a)(2)(iv), and (4) an explanation is provided stating why color photographs are necessary. The color photographs are for Figure 1.
A review of the application record indicates that all of the requirements for acceptance of color photographs have been met.

The petition is **GRANTED**.

Upendra Roy
Special Program Examiner
Technology Center 1700

Abelman Frayne & Schwab
Attorney at Law
150 East 42nd Street
New York, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.9

STROOCK & STROOCK & LAVAN, LLP
180 MAIDEN LANE
NEW YORK, NY 10038
Attn: Steven B. Pokotilow, Esq.

MAIL

FEB 17 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
ZHOU et al.	:	
Application No. 09/820,551	:	DECISION ON PETITION TO
Filed: March 29, 2001	:	WITHDRAW HOLDING OF
For: **SYSTEM AND METHOD FOR REMOTELY MONITORING**	:	ABANDONMENT

This is a decision on the petition filed November 12, 2003, under 37 C.F.R. § 1.181(a) to withdraw holding of abandonment.

The application became abandoned for failure to timely file a response to the Non-Final Office Action mailed April 9, 2002. A Notice of Abandonment was mailed on November 15, 2002.

Petitioner asserts that he did not receive the Non-Final Office action mailed April 9, 2002, or the Notice of Abandonment mailed November 15, 2002. In support of the petition, Petitioner provides a copy of the Change of Address filed at the Patent and Trademark Office on August 3, 2001. A review of the file indicates that Change of Address was received on August 3, 2001. A review of the record also indicates that the Non-Final Office action, and the Notice of Abandonment were mailed to the previous address of record. Therefore, there was an irregularity in mailing of the non-final Office action, and the Notice of Abandonment, as it was mistakenly mailed to an incorrect correspondence address. The U.S. Patent and Trademark Office regrets any inconvenience to the petitioner.

Accordingly, the application was not abandoned in fact, and the holding of abandonment is withdrawn.

The petition is **GRANTED**.

The Notice of Abandonment mailed November 15, 2002 is hereby vacated. In view of the time lapse between the original mailing of the Office action of April 9, 2002, and the date of this decision, the application file will be forwarded to the examiner of record for updating the search and the Office action as appropriate.

From there, the file will be forwarded to the Technology Center 2600 technical support staff for mailing of the updated Office action to the correct correspondence address of record and setting a new shortened statutory period of three (3) months for the applicant to respond.

Jin F. Ng, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

OCT 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Howard et al.	:	DECISION ON APPLICATION
Application No. 09/820,552	:	FOR
Filed: March 29, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 108344.00013	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT - PRE-GRANT," filed June 19, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seventy-four (74) days to two hundred three (203) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **one hundred seventy-one (171)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 5, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 74 days. On June 19, 2006, applicants timely submitted the instant application for patent term adjustment[1]. Applicants dispute the reduction of 94 days associated with the filing on May 2, 2003 of a response to the non-final Office action mailed October 28, 2002. Applicants state that a reply was filed on February 28, 2003, and that the response was

[1] PALM records indicate that the Issue Payment was filed on August 31, 2006.

resubmitted on May 2, 2003 because the original response was misplaced by the Office. Thus, the reduction for this delay pursuant to § 1.704(b) should be 31 days, not 94 days. Further, applicants assert that, given that the response was actually filed on February 28, 2003, a period of adjustment of 128 days pursuant to §§ 1.702(a)(2) and 1.703(a)(2) should be entered for the Office taking until November 3, 2003 to respond. In support thereof, applicants submitted a copy of their return postcard receipt evidencing filing of the response on February 28, 2003.

Applicants state that the application is not subject to a terminal disclaimer.

Applicants are correct. The application history shows that the reply is properly considered filed on February 28, 2003. Furthermore, applicants' characterization of the basis for and amounts of the corrections to the adjustments and reductions of patent term in this application given the filing of the reply on February 28, 2003 is correct.

However, a review of the record reveals a further basis for reduction. Specifically , after filing the response on February 28, 2003, on April 1, 2003, applicant filed an Information Disclosure Statements (IDS). The record does not support a conclusion that the IDS was expressly requested by the examiner. Nor do applicants argue that it was. Furthermore, the IDS was not accompanied by a § 1.704(d) statement. Accordingly, a reduction of 32 days pursuant to 37 CFR 1.704(c)(8) is being entered.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 171 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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Paper No.

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OCT 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Darin Higgins, Dan Scott and	:	DECISION ON PETITION
John Howard	:	
Application No. 09/820,552	:	
Filed: March 29, 2001	:	
Atty Docket No. 108344.00013	:	:

This is a decision on the REQUEST FOR GRANT OF PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(a) AND PETITION TO FILE DECLARATION UNDER 37 C.F.R. 1.183 filed June 19, 2006. (The petition includes persuasive evidence that this petition was originally filed December 19, 2005).

The petition is **GRANTED**.

The above-identified application was filed on March 29, 2000, with a declaration executed by joint inventors Darin Higgins and Dan Scott. On December 19, 2005 (and resubmitted on June 19, 2006), the instant request under § 1.48(a) was filed to amend the inventorship to add joint inventor John Howard.

37 CFR 1.48(a) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1),(2), (4) and (5) above. The petition specifically requests the addition of inventor Howard. The petition includes a statement from inventor Howard that the inventorship error occurred without deceptive intent. Petitioner has paid the processing fee. The petition includes a statement signed by Robert Kennard, with a statement that he is authorized to sign on behalf of the assignee company, consenting to the change in inventorship. Petitioner states that the assignment reflecting this ownership is recorded at reel/frame 013910/0173.

However, the petition does not satisfy requirement (3) above. The declaration submitted is re-executed by inventor Scott and executed by inventor Howard. Petitioner requests waiver of the requirement that all of the inventors sign the declaration on the basis that non-signing inventor Higgins refuses to join in the application and/or cannot be found or reached after diligent effort to join in the application.

On very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a request and fee under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. In re Cooper, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. In re Hardee, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). As 37 CFR 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, issues relating to the

inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought.

As to requirement (3), in such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached. See MPEP 201.03. As discussed above, assignee consent is given to the requested correction. This consent is supplemented by evidence that non-signing inventor Higgins has refused to join in the application. Accordingly, the waiver is **GRANTED**.

Receipt of payment of the processing fee of $130 under 1.17(i) is acknowledged. The petition fee of $400 (not $130) under 37 CFR 1.183 has been charged to petitioner's Deposit Account, as authorized.

The instant application is under a notice of allowance. The Office of Patent Publication has been advised of this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
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WASHINGTON DC 20001-4413

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JAN 27 2010
NOTICE

In re Patent No. 7,142,217 :
Issued: November 28, 2006 :
Application No. 09/820,552 :
Filed: March 29, 2001 :
Atty Docket No. 108344.00013 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The communication is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34,, the signature of Mr. Anthony J. Lombardi appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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Paper No. 7

FISH & RICHARDSON P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111

MAILED

AUG 0 6 2003

Technology Center 2100

In re Application of: Kazutoyo Maehiro
Application No. 09/820,554
Filed: March 29, 2001
For: MEMBERSHIP INFORMATION RETRIEVAL SERVER, USER TERMINAL, MESSAGE-SENDING TERMINAL, AND METHOD FOR RETRIEVING MEMBERSHIP INFORMATION AND FOR SENDING MESSAGE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Representation filed July 22, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Bruce H. Bernstein, Esq.
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, Virginia 20191-1411

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901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

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In re Application	:	
Scott, et al.	:	
Application No. 09/820,557	:	DECISION ON APPLICATION
Filed: March 29, 2001	:	FOR PATENT TERM ADJUSTMENT
Docket No. 09090.0003-02	:	

This is a decision on the "COMMENTS ON DETERMINATION OF PATENT TERM ADJUSTMENT," filed August 21, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred sixty-nine (269) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was three hundred thirty-eight (338) days.

The Office initially determined a patent term adjustment of three hundred thirty-eight (338) days based on an adjustment for PTO delay of one hundred forty-seven (147) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and two hundred fifty-four (254) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. § 1.703(a)(2), reduced by thirty-two (32) and thirty-

one (31) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). All adjustments have been reviewed and determined to be correct.

Applicant points out that they should have been assessed additional delay in responding to an Office action. The Office mailed a non-final action on October 23, 2002. Applicants filed a response on February 24, 2003. Accordingly, pursuant to 37 C.F.R. 1.704(b), thirty-two (32) days of applicant delay should have been assessed for this filing.

Moreover, Applicant should have been assessed additional delay of thirty-seven (37) days pursuant to 37 C.F.R. 1.704(c)(8). After Applicants filed their response on February 24, 2003, Applicants filed an IDS on April 1, 2003. Accordingly, pursuant to 37 C.F.R. 1.704(c)(8), additional applicant delay of thirty-seven (37) days should have been assessed for this supplemental filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **two hundred sixty-nine (269) days** (401 (147+254) days of PTO delay, reduced by 132 (32+37+37+31) days of applicant delay).

No fee has been charged. The Office thanks Applicants for their good faith and candor in bringing this matter to the Office's attention.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Tuesday
Date: 11/21/2006

PALM INTRANET

Time: 10:05:02

PTA Calculations for Application: 09/820557			
Application Filing Date:	03/29/2001	PTO Delay (PTO):	401
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	63
Post-Issue Petitions:	0	Total PTA (days):	269
PTO Delay Adjustment:	-69		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
94	11/21/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		69	
83	07/26/2006	MAIL NOTICE OF ALLOWANCE			
82	07/25/2006	ISSUE REVISION COMPLETED			
81	07/25/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
80	07/25/2006	CASE DOCKETED TO EXAMINER IN GAU			
79	07/25/2006	NOTICE OF ALLOWABILITY			
78	05/17/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
77	05/17/2006	REFERENCE CAPTURE ON IDS			
76	05/17/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	05/23/2006	DATE FORWARDED TO EXAMINER			
74	05/17/2006	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
73	05/23/2006	DATE FORWARDED TO EXAMINER			
72	05/17/2006	REQUEST FOR CONTINUED EXAMINATION (RCE)			
71	05/23/2006	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
70	05/17/2006	WORKFLOW - REQUEST FOR RCE - BEGIN			
69	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
68	03/06/2006	MAIL FINAL REJECTION (PTOL - 326)			
67	03/03/2006	FINAL REJECTION			
66	12/08/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	01/23/2006	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			

64	01/12/2006	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
63	12/03/2005	REFERENCE CAPTURE ON IDS			
61	12/08/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	59
60	12/19/2005	DATE FORWARDED TO EXAMINER			
59	12/08/2005	RESPONSE AFTER NON-FINAL ACTION			
58	09/09/2005	MAIL NON-FINAL REJECTION			
57	09/06/2005	NON-FINAL REJECTION			
56	07/14/2005	REFERENCE CAPTURE ON IDS			
55	07/14/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
54	07/19/2005	DATE FORWARDED TO EXAMINER			
53	07/14/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
52	07/19/2005	DATE FORWARDED TO EXAMINER			
51	07/14/2005	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
50	07/19/2005	DATE FORWARDED TO EXAMINER			
49	07/14/2005	REQUEST FOR CONTINUED EXAMINATION (RCE)			
48	07/19/2005	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
47	07/14/2005	WORKFLOW - REQUEST FOR RCE - BEGIN			
46	04/19/2005	MAIL FINAL REJECTION (PTOL - 326)	254		40
45	04/15/2005	FINAL REJECTION			
44	02/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
43	04/01/2003	REFERENCE CAPTURE ON IDS			
42	04/08/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
41	02/04/2005	DATE FORWARDED TO EXAMINER			
40	04/08/2004	RESPONSE AFTER NON-FINAL ACTION		31	36
39	04/08/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	01/05/2005	MISCELLANEOUS INCOMING LETTER			
37	04/08/2004	WORKFLOW INCOMING AMENDMENT IFW			
36	12/08/2003	MAIL NON-FINAL REJECTION			
35	12/05/2003	NON-FINAL REJECTION			
34	12/01/2003	DATE FORWARDED TO EXAMINER			

33	10/02/2003	RESPONSE AFTER NON-FINAL ACTION			
32	10/02/2003	REQUEST FOR REFUND			
31	08/25/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
30	08/25/2003	WORKFLOW - REQUEST FOR RCE - FINISH			
29	09/18/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
28	09/17/2003	DATE FORWARDED TO EXAMINER			
27	08/25/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		32	18
26	09/17/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	08/25/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	08/25/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	08/11/2003	MAIL ADVISORY ACTION (PTOL - 303)			
22	08/09/2003	ADVISORY ACTION (PTOL-303)			
21	07/18/2003	DATE FORWARDED TO EXAMINER			
20	07/14/2003	AMENDMENT AFTER FINAL REJECTION			
19	04/01/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/24/2003	MAIL FINAL REJECTION (PTOL - 326)			
17	04/18/2003	FINAL REJECTION			
16	03/31/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
15	03/03/2003	DATE FORWARDED TO EXAMINER			
14.1	02/24/2003	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
14	02/24/2003	RESPONSE AFTER NON-FINAL ACTION			
13	02/24/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	02/24/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/03/2003	CORRESPONDENCE ADDRESS CHANGE			
10	10/23/2002	MAIL NON-FINAL REJECTION	147		-1
9	10/21/2002	NON-FINAL REJECTION			
8	10/07/2002	CASE DOCKETED TO EXAMINER IN GAU			
7	10/03/2002	CASE DOCKETED TO EXAMINER IN GAU			
6	05/21/2002	CASE DOCKETED TO EXAMINER IN GAU			
5	09/13/2001	CASE DOCKETED TO EXAMINER IN GAU			
4	05/11/2001	APPLICATION DISPATCHED FROM OIPE			

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& DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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In re Patent No. 7,167,187	:	
Issued: January 23, 2007	:	
Application No. 09/820,557	:	NOTICE
Filed: March 29, 2001	:	
Atty Docket No. 9090.0003-02	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

FISH & RICHARDSON P.C.
45 Rockefeller Plaza
Suite 2800
New York, NY 10111

OCT 2 7 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of
Kazutoyo MAEHIRO
Application No. 09/820,565
Filed: March 29, 2001
For: MEHTOD AND APPARATUS FOR OPENING ELECTRONIC CONFERENCE

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed October 23, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on August 7, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Greenblum & Bernstein as the attorneys of record of the instant application. The Power Of Attorney of August 7, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Greenblum & Bernstein.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
For Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: GREENBLUM & BERNSTEIN P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

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JAN 18 2005

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

MAILED

JAN 18 2005

OFFICE OF THE DIRECTOR
TC 3600

In re application of:
Reed Maltzman
Application No. 09/820,574 :
Filed: March 28, 2001 :
For: METHOD AND SYSTEM TO ENABLE A FIXED PRICE PURCHASE WITHIN AN ONLINE AUCTION ENVIRONMENT :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on November 15, 2004, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), the reason "Discontinuation of the attorney/client relationship", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 01/05/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRIARCLIFF MANOR NY 10510

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of :
Joseph Meehan et al. :
Application No. 09/820,594 :
Filed: March 29, 2001 :
Attorney Docket No. US010099 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 1, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 2, 2006. The Notice of Abandonment was mailed July 26, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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JUL 20 2005

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Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

In re Application of:
Jessell et al.
Serial No.: 09/820,598
Filed: March 29, 2001
Attorney Docket No.: 57477-A-PCT-US/JPW/MVM

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is in response to applicants' petition under 37 CFR § 1.181(a) filed on April 4, 2005, requesting withdrawal of the holding of abandonment for failure to timely file a proper reply to the Office action mailed July 14, 2004. The delay in responding to this petition is regretted.

A review of the file history shows that the examiner mailed an Office action to applicants on July 14, 2004, setting a three-month statutory time period for reply. On February 9, 2005, the examiner mailed a notice of abandonment for failure to respond to the outstanding Office action. Specifically, the reply was not entered as the amendment was unsigned.

Applicants state that a response to the Office action was timely filed on May 11, 2004, as shown by the signed certificate of mailing date. Applicants also indicate that a signed transmittal letter identifying the amendment and IDS was submitted on May 11, 2004 and that this is sufficient according to 37 CFR 1.4 (d) (1). In view of this evidence, applicants are considered to have submitted a timely reply.

Applicants' petition is **GRANTED**. This application is restored to pending status with the mailing of this decision and will be forwarded to the examiner for consideration of the amendment.

Patent term extensions should be applied for after a Patent issues.

Should there be any questions about this decision, please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile at 703-872-9306.

Marianne C. Seidel for

Bruce Kisliuk
Director, Technology Center 1600

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WASHINGTON, D.C. 20231
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Paper No. 6

Kilpatrick Stockton LLP
607 14th Street, NW
Suite 900
Washington, DC 20005-2018

MAIL

JUN 2 6 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Iqbal Talib, et al.	)	
Application No. 09/820,613	)	
Filed: March 30, 2001	)	**DECISION ON REQUEST FOR**
For: METHODS AND SYSTEMS FOR	)	**WITHDRAWAL AS ATTORNEY**
SEARCHING AN INFORMATION	)	
DIRECTORY	)	

This is a decision on the Request To Withdraw from Representation filed April 17, 2002 and the Supplemental Request To Withdraw filed May 21, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

cc: Lars O. Scofield
i411, Inc.
14320-D Scullyfield Circle
Chantilly, VA 20151

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Paper No. 9

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, N.W., Suite 850
Washington DC 20036

MAIL

OCT 24 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Maruwaka et al..
Application No. 09/820,636
Filed: March 30, 2001
For: **RATE MATCHING CALCULATION METHOD AND RATE MATCHING APPARATUS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed June 26, 2003 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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Paper No. 5

Kilpatrick Stockton LLP
607 14th Street, N.W.
Suite 900
Washington, DC 20005

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MAY 3 1 2002

Technology Center 2100

In re Application of:	)	
Iqbal TALIB, et al.	)	
Application No. 09/820,659	)	
Filed: March 30, 2001	)	**DECISION ON REQUEST FOR**
For: METHODS AND SYSTEMS FOR	)	**WITHDRAWAL AS ATTORNEY**
ENABLING EFFICIENT	)	
RETRIEVAL OF DOCUMENTS	)	
FROM A DOCUMENT ARCHIVE	)	

This is a decision on the Request To Withdraw from Representation filed April 17, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. **The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others**. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

The request is signed by George T. Marcou alone and does not contain a clear indication that Mr. Marcou is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
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Technology Center 2100

In re Application of:)
Iqbal TALIB, et al.)
Application No. 09/820,660)
Filed: March 30, 2001) **DECISION ON REQUEST FOR**
For: METHODS AND SYSTEMS FOR) **WITHDRAWAL AS ATTORNEY**
ENABLING EFFICIENT)
EMPLOYMENT RECRUITING)

This is a decision on the Request To Withdraw from Representation filed April 17, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. **The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others**. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

The request is signed by George T. Marcou alone and does not contain a clear indication that Mr. Marcou is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

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Special Programs Examiner
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Paper No. 7

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JUN 1 4 2002

Technology Center 2100

In re Application of: Iqbal TALIB, et al.	)	
Application No. 09/820,660	)	
Filed: March 30, 2001	)	**DECISION ON REQUEST FOR**
For: METHODS AND SYSTEMS FOR	)	**WITHDRAWAL AS ATTORNEY**
ENABLING EFFICIENT	)	
EMPLOYMENT RECRUITING	)	

This is a decision on the Supplemental Request To Withdraw from Representation filed May 21, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

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Special Programs Examiner
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Paper No. 15

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Atlanta, GA 30303-1736

MAILED

AUG 2 4 2004

Technology Center 2100

In re Application of: Talib et al.	)	
Application No. 09/820,660	)	DECISION ON PETITION TO
Attorney Docket No. IGX0002-US	)	WITHDRAW HOLDING OF
Filed: March 30, 2001	)	ABANDONMENT UNDER 37 CFR
For: METHODS AND SYSTEMS FOR	)	§1.181
ENABLING EFFICIENT EMPLOYMENT	)	
RECRUITING		

This is a decision on the petition to withdraw the holding of abandonment, under 37 CFR §1.181, filed on March 10, 2004 and supplemented by facsimile transmission on August 11, 2004.

The instant application became abandoned for failure to timely respond to the Office action mailed July 7, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A properly used certificate of mail and transmission that include a 37 CFR §1.8(b)(3) statement, that properly identify the contents of the submission, is acceptable. Petitioner has provided evidence in the petition and the supplemental filing that includes: a copy of the response; a request for a three months extension of time; a proper 37 CFR §1.8(b)(3) statement; as well as a revocation/substitution of power of attorney.

Since all of the criteria set forth above have been met, the petition is **GRANTED.**

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment (restore the instant application to pending status), to enter the response (copy filed March 10, 2004) as well as the request for extension of time. The application will then be forwarded to the examiner for prompt action on the merits.

8/13/04

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
703-308-0885

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Paper No. 6

Kilpatrick Stockton LLP
607 14th Street, N.W.
Suite 900
Washington, DC 20005

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MAY 31 2002

Technology Center 2100

In re Application of:	)	
Iqbal TALIB, et al.	)	
Application No. 09/820,661	)	
Filed: March 30, 2001	)	
For: METHODS AND SYSTEMS FOR ENABLING EFFICIENT SEARCH AND RETRIEVAL OF PRODUCTS FROM AN ELECTRONIC PRODUCT CATALOG	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**

This is a decision on the Request To Withdraw from Representation filed April 17, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. **The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others**. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. **37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent**.

The request is signed by George T. Marcou alone and does not contain a clear indication that Mr. Marcou is authorized to sign on behalf of the other attorneys of record and is signing on behalf of the other attorneys of record. Furthermore, there is no indication that Applicant has been notified of the request for withdrawal.

Accordingly, the request is **DENIED**.

All future communications from the United States Patent and Trademark Office (Office) will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure

receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software,
and Electronic Commerce
(703) 305-9750

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Paper No. 8

George T. Marcou
KILPATRICK STOCKTON LLP
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Washington, DC 20005-2018

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JUN 1 4 2002

Technology Center 2100

In re Application of:	)	
Iqbal Talib, et al.	)	
Application No. 09/820,661	)	**DECISION ON REQUEST FOR**
Filed: March 30, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHODS AND SYSTEMS FOR ENABLING EFFICIENT SEARCH AND RETRIEVAL OF PRODUCTS FROM AN ELECTRONIC PRODUCTS CATALOG	)	

This is a decision on the Request To Withdraw from Representation filed April 17, 2002 and supplemented by the filing of May 21, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 21, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
Special Programs Examiner
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cc: Lars O. Scofield
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Chantilly, VA 20151

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Paper No.5

George T. Marcou
KILPATRICK STOCKTON LLP
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MAY 3 1 2002

Technology Center 2100

In re Application of:	)	
Iqbal TALIB et al.	)	
Application No. 09/820,662	)	**DECISION ON REQUEST FOR**
Filed: March 30, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHODS AND SYSTEMS FOR ENABLING EFFICIENT SEARCH AND RETRIEVAL OF RECORDS FROM A COLLECTION OF BIOLOGICAL DATA	)	

This is a decision on the Request To Withdraw from Representation filed April 17, 2002 and supplemented by the filing of May 21, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 21, 2002 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Vincent N. Trans
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cc: Lars O. Scofield
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RGM

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SEP 16 2003

Paper No. 27

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320

RECEIVED NOV 23 2005 TECHNOLOGY CENTER 2800

In re Application of
HAYASHI
Application No. 09/820,704
Filed: March 30, 2001
Attorney Reference No. 108962

DECISION ON PETITION

This is a decision on the petition filed August 6, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED.**

A Notice of Allowance and Fee(s) Due was mailed on January 28, 2003, setting forth a three-month period of response. The application became abandoned for failure to pay the issue fee.

Petitioner states that the Notice of Allowance and Fee(s) Due was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the Notice of Allowance and Fee(s) Due was not received. The petition is accompanied by a copy of the docket record where the non-received notice would have been entered.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Allowance and Fee(s) Due was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Applicant has provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Further, applicant has

provided a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

Since applicant has made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is withdrawn.

The application file is being forwarded to the Technical Support staff for re-mailing the Notice of Allowability and the Notice of Allowance and Fee(s) Due. The shortened period for response set therein will be reset to expire three months form the date these Notices were remailed. Extensions of this time are NOT available under 37 C.F.R. §1.136(a).

Questions regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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In re Application of
Shigeyuki Hayashi
Application No. 09/820,704
Filed: March 30, 2001
Attorney Docket No. 108962

This is a decision on the petition, filed March 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2861 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RECEIVED
NOV 23 2005
TECHNOLOGY CENTER 2800

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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UNITED STATES PATENT AND TRADEMARK OFFICE
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OFFICE OF PETITIONS
ON PETITION

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of :
Shigeyuki Hayashi :
Application No. 09/820,704 :
Filed: March 30, 2001 :
Attorney Docket No. 108962 :

This is a decision on the petition, filed March 9, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 24, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2861 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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MAY 17 2006

OFFICE OF PETITIONS

In re Application of:	:	
Roberts et. al.	:	
Application No. 09/820,722	:	DECISION ON
Filed: March 30, 2001	:	PETITION
Attorney Docket Number:	:	
1364.1001D2C	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed December 27, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 23, 2005. The Office action set a three (3) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). Applicant filed an Amendment and three (3) month extension of time on December 23, 2005; however, the amendment failed to place the application in condition for allowance.

Applicant files the instant petition and provides that, included with the Amendment filed December 23, 2005, was an authorization to charge [the previously identified Deposit Account] any additional fee required under … 35 CFR 1.17

(processing fees) during the prosecution of this application … to maintain pendency thereof …" Applicant requests that this general authorization to charge Applicant's deposit account "be interpreted as a Request for Continued Examination …". Petition at p.1. Applicant authorizes this Office to charge the fee for a RCE as per the authorization to charge Applicant's deposit account filed December 23, 2005. Applicant alternatively requests revival of the application under 37 CFR 1.137(b) and continuation of prosecution under 37 CFR 1.114 (RCE). Applicant provides that "clearly the intent of the Applicant's was to continue prosecution …".

The Examiner has reviewed the Amendment and concluded that the Amendment failes to place the application in condition for allowance.

Accordingly, since no complete and proper reply to the June 23, 2005 final Office action was received, the application became abandoned September 24, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicable Law, Rules and MPEP

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed); (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (**4**) if required, a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)).

This petition lacks item (**1**) above.

As to item (**1**), 37 CFR 1.4(c) provide that "[s]ince different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

Here, Applicant seeks to (1) have this office construe an authorization to charge his deposit account as a RCE, and (2) Applicant request this Office construe the instant petition as a

RCE. In accordance with 37 CFR 1.4, Applicant is advised to file a proper RCE. Applicant is further advised that a RCE Transmittal request form may be obtained from our website at www.uspto.gov.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of:	:	
Roberts et. al.	:	
Application No. 09/820,722	:	DECISION ON
Filed: March 30, 2001	:	PETITION
Attorney Docket Number:	:	
1364.1001D2C	:	

This is a decision in response to the petition under 37 CFR 1.137(b), filed May 24, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed June 23, 2005. The Office action set a three (3) month period for reply, and also provided for extensions of time under 37 CFR 1.136(a). Applicant filed an Amendment and three (3) month extension of time on December 23, 2005; however, the amendment failed to place the application in condition for allowance.

A petition to revive the application, filed December 27, 2005, was dismissed for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

With the instant petition, Petitioner paid the petition fee; submitted a Request for Continued Examination ("RCE"), and fee, A submission in the form of an Amendment was filed December 27, 2005.

Accordingly, the petition is **granted**.

The application is being referred to Technology Center 2154 to process the RCE and Amendment.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JUL 23 2004
OFFICE OF PETITIONS

In re Application	:	
Hanada et al.	:	
Application No. 09/820,757	:	DECISION ON APPLICATION
Filed: March 30, 2001	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No. 7372/70910	:	

This is a decision on the "PETITION FOR RE-DETERMINATION OF CORRECTION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. §1.54(b)," filed July 1, 2004. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to two hundred eighty-three (283) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred forty-nine (349) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 26, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On July 1, 2004, Applicants timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred eighty-three (283) days.

Applicants assert entitlement to a patent term adjustment of two hundred eighty-three (283) days on the basis that the PTO improperly failed to enter a Power of Attorney / Change of Correspondence Address, which resulted in the mailing of Office actions to the old law firm and address of record.

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of sixty-three (63) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) and thirty-eight (38) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. 1.703(a)(3), reduced by Applicants' delays of ninety-four (94) days and eighty-one (81) days, both pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The PTO delay of 63 days has been reviewed and found to be correct. The adjustments of 38, 94, and 81 days are at issue.

The adjustment of 94 days has been found to be incorrect. Applicants filed a Power of Attorney and Change of Correspondence Address on January 25, 2002, prior to the mailing of the first Office action. The first Office action was mailed on August 1, 2002, and was addressed to the old address of record. As a result, applicants failed to timely receive the Office action, and did not file a response until February 3, 2003 (made timely because applicants obtained a three month extension of time, and because February 1, 2003 fell on a Saturday).

In view of the fact that the August 1, 2002 Office action was addressed to the old address of record, applicant delay in responding to that Office action should have been assessed as zero (0) days. Likewise, for the same reason, applicant delay in

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[1] Applicants filed the application for patent term adjustment prior to the filing of the issue fee.

responding to the April 17, 2003 final Office action on October 6, 2003 should also have been assessed as zero (0) days.

Once applicant filed the amendment on February 3, 2003, the Office was required to mail a reply within four months. See 37 C.F.R. 1.703(a)(2). The Office did not mail an Office action to the proper law firm of record until March 15, 2004. Accordingly, PTO delay should have been assessed as two hundred eighty-six (286) days, not thirty-eight (38) days, representing the number of days in the period beginning on the day after the date that is four months after the reply was filed (June 4, 2003), and ending on the day the Office action was mailed (March 15, 2004).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred forty-nine (349) days** (286 + 63 days of PTO delay and zero (0) days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 06-1135, as authorized.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (703) 305-0272.

Karin Ferriter for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of :
Akihiro Furukawa et al :
Application No. 09/820,761 : DECISION GRANTING PETITION
Filed: March 30, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 109133 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of August 13, 2004 is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary and will be refunded to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2152 for appropriate action on the reply received February 17, 2005.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BILL KITCHEN
980 LAKE RUN CIRCLE
WESTERVILLE OH 43081

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OFFICE OF PETITIONS

In re Application of
Bill Kitchen et al.
Application No. 09/820,804
Filed: March 30, 2001
Title of Invention: **ELECTRONIC BILL PRESENTMENT WITH BILL CATEGORIZATION**

ON PETITION

This is in response to the petition under 37 CFR 1.47(a) filed July 11, 2001.

The petition is **DISMISSED** as involving moot issues.

A Notice to File Missing Parts was mailed May 10, 2001 as the application was filed without an oath or declaration. In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/034,561, filed on March 3, 1998, of which the instant application is a continuation. Furthermore, a copy of the decision, mailed January 18, 2002, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as involving moot issues. As no petition fee is necessary, no petition fee has been charged. However, the surcharge for late filing of an oath or declaration has been properly remitted and properly applied.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

Furthermore, this decision is being mailed to the first named inventor with a courtesy copy to SUTHERLAND ASBILL & BRENNAN LLP. While a petition to withdraw as attorney of record was filed by Antonellie, Terry, Stout and Kraus on June 24, 2005 and while a power of attorney was filed on July 20, 2005 and signed by VP and General Counsel Laura Binion, the most recent Power of Attorney is rejected because it does not include a statement under 37 CFR 3.73(b). The putative assignee has not

established its right to take action in accordance with 37 CFR 3.73(b). Specifically, petitioners have not provided documentary evidence of a chain of title from the original owner to the assignee, nor shown that documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*i.e.* reel and frame number) and thus has no right to grant the power of attorney to SUTHERLAND ASBILL & BRENNAN LLP.

After this decision is mailed, the matter will be referred to Technology Center 3624 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT & TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, DC 20231
www.USPTO.gov

Paper No. 20

Lalos and Keegan
1146 Nineteenth Street, N. W.
Fifth Floor
Washington, DC 20006-3703

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JAN 1 8 2002

OFFICE OF PETITIONS

In re Application of
Bill Kitchen, et al.
Application No. 09/034,561
Filed: March 3, 1998
Attorney Docket No. 33500-00005

ON PETITION

This is a decision on the Petition under 37 CFR 1.47(a), filed November 30, 1998.

The petition is granted.

Petitioner has shown that the non-signing inventors have refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Publications.

Telephone inquiries regarding this decision should be directed to Marianne Morgan at (703) 306-3475.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JAN 24 2002
LALOS & KEEGAN

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Alexandria, VA 22313-1450
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ANTONELLI TERRY STOUT & KRAUS
SUITE 1800
1300 NORTH SEVENTEENTH STREET
ARLINGTON, VA 22209

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MAY 2 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Bill Kitchen et al	:	
Application No. 09/820,804	:	DECISION ON PETITION
Filed: March 30, 2001	:	TO WITHDRAW
Attorney Docket No. 3350-05F	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Alfred A. Stadnicki on behalf of all attorneys/agents of record who are associated with customer No. 020457 and all other attorneys/agents of record. However, a review of the file record indicates that not all attorneys/agents associated with customer No. 020457 have power of attorney in this application or has been employed or otherwise engaged in the proceedings in this application. In view of the present decision, all attorneys/agents associated with customer No. 020457 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

A power of attorney submitted on July 20, 2005 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3624.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: WILLIAM R. SILVERIO
SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3996

MR. HANS DREYER
DIRECTOR, INTELLECTUAL PROPERTY (LEGAL DEPARTMENT)
CHECKFREE CORPORATION
6000 PERIMETER DRIVE
DUBLIN, OH 43017-3233

BILL KITCHEN
980 LAKE RUN CIRCLE
WESTERVILLE, OH 43081

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ANTONELLI TERRY STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Bill Kitchen et al	:	
Application No. 09/820,805	:	DECISION ON PETITION
Filed: March 30, 2001	:	TO WITHDRAW
Attorney Docket No. 3350-05C	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request does not appear to meet any of the conditions set forth in 37 CFR 10.40.

The Power of Attorney submitted July 20, 2005 is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of

the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

David Bucci
Petitions Examiner
Office of Petitions

cc: William R. Silverio
Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309-3996

cc: Mr. Hans Dreyer
Director, Intellectual Property
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Bill Kitchen	: DECISION ON REQUEST FOR
Patent Number	: 7636688	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 09/820,805	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1722** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

#11

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Ogilvy Renault
1981 McGill College Avenue
Suite 1600
Montreal, QC
H3A2Y3
Canada

MAILED
FROM DIRECTORS OFFICE

NOV 09 2005

TECHNOLOGY CENTER 3600

In re Application of
Jean Lapointe, et al.
Application No. 09/820,834
Filed: March 30, 2001
For: ANCHORING MEMBER FOR A SUPPORT POST

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicants' petition to withdraw the holding of abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office, on November 26, 2003.

The petition is **GRANTED** in view of the following evidence of timely filing :

☐ Postcard receipt being dated_____.

☐ USPTO return facsimile receipt dated _____ which identifies the application by serial number and the type of Response that was filed on that date.

☒ Certificate of Transmission signed on May 26, 2003, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for entry of the response filed with the petition, then to the examiner for prompt action on the response.

RAR/rwg: 12/04/04

Randolph A. Reese
Special Programs Examiner
Group 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/31/09

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/820,856 Patent No.: 6,800,302

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Should the changes Be made?

RoChaun Johnson
Certificates of Correction Branch
703-308-9390 ext. 119

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

M P Woodward 1615

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of	:	DECISION ON
Dallmeyer et al.	:	PETITION
Application No.: 09/820887	:	
Filing or 371(c) Date: 03/30/2001	:	
Attorney Docket Number: 2001P06108US	:	

This is a decision in response to the "Petition to Withdraw Improper Notice of Abandonment," filed October 18, 2007. The petition is properly treated under 37 C.FR § 1.181. The delay in treating this petition is regretted.

This Petition to withdraw the holding of abandonment is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 19, 2004. The Office action indicated that no claims were allowed. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed an Amendment in response to the Office action on November 19, 2004. The Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed December 6, 2004. The Advisory action set a reply period of one (1) month from the mail date of the Advisory Action, or within the reply period as set forth in the final Office action, whichever was later. (Emphasis supplied.)

No complete and proper reply having been received, the application became abandoned on January 7, 2004. A Notice of Abandonment was mailed July 13, 2005.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action, to wit – a Request for Continued Examination ("RCE"), and fee, and a two (2) month extension of time and fee; were timely filed on January 19, 2005. In support of this assertion, Applicant files a copy of the reply. Applicant also files a copy of this Office's Patent Application Information and Retrieval System (PAIR) records for the present application, which indicate that this Office received a RCE on January 19, 2005.

Office records

A review of Office records confirms that this Office received the RCE and fee, and a two (2) month extension of time request and fee, on January 19, 2005. A review of the RCE reveals that Applicant requested therein that the Amendment filed November 19, 2004 serve as the submission required by 37 CFR 1.114.

Conclusion

In view of the above, the holding of abandonment for failure to timely and properly reply to the final Office action is hereby withdrawn.

The application is being referred to Technology Center Art Unit 3726 for processing of the RCE and Amendment, in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN - 9 2004

Paper No. 16

In re Application of
Michael P. Dallmeyer *et al*
Application No. 09/820,888
Filed: March 20, 2001
Attorney Docket No. 051252-5192

DECISION ON PETITION

This is a decision on the petition filed on April 5, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated June 3, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was actually filed on June 26, 2003. The reply has now been located and associated with the application file. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the Information Disclosure Statement (IDS) filed on June 3, 2003. Thereafter, the application will be forwarded to the examiner for appropriate handling of the IDS.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Morgan Lewis & Bockius LLP
1111 Pennsylvania Avenue NW
Washington, DC 20004

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 3

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JUN 0 3 2003

Technology Center 2100

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of: Sunil K, JAIN, et al.	)	
Application No. 09/820,896	)	**DECISION ON REQUEST FOR**
Filed: March 30, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: VIRTUAL TEST ENVIRONMENT	)	

This is a decision on the Request To Withdraw from Representation filed May 5, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Schwegman, Lundberg, Woessner & Kluth P.A.
c/o Anne Richards
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JUN 2 7 2003

TECHNOLOGY CENTER 2100

Paper No. 6

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 North Seventeenth Street
Suite 1800
Arlington, VA 22209

In re Application of: Girish P. Ramanathan, et al.	)	
Application No. 09/820,898	)	
Filed: March 30, 2001	)	**DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY**
For: SYSTEM FOR VARYING TIMING BETWEEN SOURCE AND DATA SIGNALS IN A SOURCE SYNCHRONOUS INTERFACE	)	

This is a decision on the Request To Withdraw from Representation filed June 6, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

FOR

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Schwegman, Lundberg, Woesnner & Kluth P.A.
c/o Anne Richards
1600 TCF Tower
121 S. 8th Street
Minneapolis, MN 55402

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MAR 1 6 2004
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Received By:
Slater & Matsil L.L.P.
AUG 2 2 2003

PAPER NO.

ENTERED
8/22/03

IRA S. MATSIL
SLATER & MATSIL, L.L.P.
17950 PRESTON RD., SUITE 1000
DALLAS, TX 75252

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AUG 1 9 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hans-Joachim Barth, et al.
Application No. 09/820,900
Filed: March 30, 2001
Attorney Docket No. 2001 P 05739

This is a decision on the petition under 37 CFR 1.313(c)(2), filed by facsimile transmission on August 18, 2003, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 21, 2003, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

After the application is received in the Office of Petition, the file will be forwarded to Technology Center AU 2825 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 7

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Kao, Tsung-Ching	:	
Application No. 09/820,911	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 3076-96	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 14, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed October 2, 2002. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 3, 2003. A Notice of Abandonment was mailed April 21, 2003.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file is now being forwarded to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ALFRED A. STADNICKI
FIFTH FLOOR
1146 NINETEENTH STREET, NW
WASHINGTON, DC 20036

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APR 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Bill Kitchen et al	:	
Application No. 09/820,955	:	DECISION ON PETITION
Filed: March 30, 2001	:	TO WITHDRAW
Attorney Docket No. 3350-05B	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 24, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Alfred A. Stadnicki on behalf of all attorneys of record who are associated with Customer No. 20457. Applicant is reminded that there is no attorney of record at this time.

The Substitute Power of Attorney and Change of Correspondence Address submitted on July 20, 2005 in not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing

ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

The correspondence address of record has been changed and the new correspondence address is the first address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

Attachment: blank 37 CFR 3.73(b)

cc: Mr. Hans Dreyer
Director, Intellectual Property (Legal Department)
CheckFree Corporation
6000 Perimeter Drive
Dublin, OH 43017-3233

cc: William R. Silverio
Sutherland Asbill & Brennan LLP
999 Peachtree Street, N.E.
Atlanta, GA 30309-3996

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OFFICE OF PETITIONS

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Flaig, et al. :
Application No. 09/820,963 :
Filed: March 30, 2001 :
Attorney Docket No. TI-34298

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed December 12, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No response was received within the allowable period, and the application became abandoned on March 13, 2007. A Notice of Abandonment was mailed on June 28, 2007.

The amendment filed August 8, 2007, is noted.

The application is being forwarded to Technology Center 2600, GAU 2611 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 14 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

COOLEY GODWARD LLP
Attn: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

In re Application of:
Lev BROUK, et al.
Application No. 09/820,965
Filed: March 30, 2001
For: SYSTEM AND METHOD FOR INVOCATION OF SERVICES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request For Withdrawal As Attorney Under 37 CFR § 1.36 and 0.40(c) filed March 8, 2004.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1.36 was filed on March 29, 2004. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Beyer, Weaver & Thomas LLP as the attorney(s) of record of the instant application. The Power of Attorney of March 29, 2004 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Beyer, Weaver & Thomas, LLP.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
703-305-9750

cc: Beyer Weaver & Thomas LLP
P. O. Box 778
Berkeley, CA 94704-078

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 16

R. Alan Whitehurst
1831 North 350 West
Orem, UT 84057

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MAR 0 5 2004

OFFICE OF PETITIONS

In re Application of
Whitehurst, Alan R.
Application No. 09/821,009
Filed: March 29, 2001
Attorney Docket No.8634.8/5144P

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2004, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed February 13, 2003, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on May 14, 2003.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $475 extension of time submitted with the petition on February 23, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner in due course.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of

attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center AU 3713 for further processing.

Telephone inquiries should be directed to the undersigned at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Parsons Behle & Latimer
201 South Main Street, Suite 1800
Salt Lake City, UT 84145-0898

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FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK NY 10038

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 6,601,749	: DECISION GRANTING PETITION
Issue Date: August 05, 2003	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 09/821,015	: REQUEST FOR CERTIFICATE OF
Filed: March 30, 2001	: CORRECTION
Attorney Docket No. 10121/01004	:

This is a decision on the petition, filed August 25, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/694,894 filed October 25, 2000, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed March 30, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee, has been charged to petitioner's Deposit Account No. 50-1492.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/821,015	03/30/2001	3721	1136	10121/01004	27	2

CONFIRMATION NO. 8540

CORRECTED FILING RECEIPT

30636
FAY KAPLUN & MARCIN, LLP
150 BROADWAY, SUITE 702
NEW YORK, NY 10038

OC000000037971024

Date Mailed: 09/28/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Roy H. Sullivan, Millville, MA;
Ronald D. Adams, Holliston, MA;

Power of Attorney: The patent practitioners associated with Customer Number 30636

Domestic Priority data as claimed by applicant

This application is a CIP of 09/694,894 10/25/2000 PAT 6,241,140
which is a CON of 09/316,674 05/21/1999 PAT 6,179,195
which is a DIV of 09/100,393 06/19/1998 PAT 6,126,058

Foreign Applications

If Required, Foreign Filing License Granted: 04/23/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/821,015**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI FIRE FULL THICKNESS RESECTIONING DEVICE

Preliminary Class

227

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper 6

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON, DC 20006-1021

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MAY 1 0 2002

OFFICE OF PETITIONS

In re Application of
Hirose et al.
Application No. 09/821,046
Filed: March 30, 2001
Attorney Docket No. 2001-0386

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 28, 2002, to revive the above-identified reissue application. This petition is first being treated under 37 CFR §1.181(no fee) petition to withdraw the holding of abandonment.

The petition to withdraw the holding of abandonment is **DISMISSED**.
The petition to revive under 37 CFR § 1.137(b) is **GRANTED**.

This above-identified application became abandoned for failure to file a complete response to a Notice to file Missing Parts of Reissue Application which was mailed on June 15, 2001. The Notice to File Missing Parts of Reissue Application set a two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). A Notice of Incomplete Reply was mailed on January 28, 2002. Accordingly, this application became abandoned on August 16, 2001. This decision precedes the mailing of a Notice of Abandonment.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Petitioner contends the Notice of Missing Parts should be withdrawn because petitioner submitted a response on August 15, 2001, indicating there was an error in the Notice of Missing Parts. However, the Notice of Missing Parts was two fold. The Notice required petitioner to submit additional claim fees and an executed declaration. The validity or invalidity of petitioner's argument that additional claim fees were not required did not absolve petitioner from having to submit an executed declaration. The showing of record is insufficient to warrant withdrawal of the holding of abandonment.

PETITION TO REVIVE 37 CFR 1.137(B)

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of the declaration submitted with the instant petition.

This application is being forwarded to the Office of Initial patent Examination Division for further processing of the application.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORPORATION
C/O HAMILTON & TERRILE, LLP
P. O BOX 203518
AUSTIN, TX 78720

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APR 24 2007

OFFICE OF PETITIONS

In re Application of	:	
Messaoud Benatar	:	
Application No. 09/821,064	:	DECISION GRANTING PETITION
Filed: March 29, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. AUS920010140US1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 16, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 17, 2004. A Notice of Abandonment was mailed on July 28, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 16, 2004 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2134 for appropriate action in the normal course of business on the reply received September 26, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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AUG - 1 2005

Frank C. Nicholas
CARDINAL LAW GROUP
1603 Orrington Avenue, Suite 2000
Evanston, IL 60201

#7

In re Application of
KEITH K. T. HO
Application No. 09/821,066
Filed: March 29, 2001
For: METHOD AND SYSTEM FOR INVENTORY MANAGEMENT

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on applicant's petition to withdrawal the holding of abandonment filed on March 09, 2005.

Applicant states that the document mailed by the USPTO of February 09, 2004 was not a Final Rejection, but instead a Notice of Abandonment for United States Patent Application Serial Number 09/585,859. In response to this notice, Applicant's counsel promptly contacted the Examiner on February 16, 2004 to request mailing of the correct Office Action.

The petition is **GRANTED** in view of the Interview Summary (PTOL-413) mailed February 24, 2004 in which the Examiner agreed to remail the Final Rejection and reset response period.

The application will be forwarded to the Supervisory Legal Instruments Examiner to withdraw holding of abandonment and redate and remail the Final Rejection of February 09, 2004.

Randolph A Reese
Special Program Examiner
Patent Technology Center 3600
(571) 272-6619

RAR/rjc 07/28/05

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Alexandria, VA 22313-1450
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C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of: SUZUKI, KATSUYUKI et al Serial No.: 09/821,069 Filed: March 30, 2001 Docket: 205279US-3X Title: HOLE FORMING TOOL	DECISION ON PETITION TO WITHDRAW FINALITY AS PREMATURE

This is a decision on the petition filed on Feb. 13, 2006 to withdraw the finality of the Office Action of Aug. 11, 2005. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition. The petition fee paid $500.00 will be refunded by crediting to the Deposit Account 15-0030.

The petition is **DISMISSED as moot**.

In the petition the applicant requested a withdrawal of the finality of the Office action mailed on Aug. 11, 2005. In support of his petition, the applicant argues that the May 2, 2005 amendment did not necessitate a final rejection under MPEP 706.07(b). On Dec. 30, 2005, the applicant filed an amendment after final and argued, *inter alia*, that the final rejection was premature. Subsequently, on Sept. 7, 2006, the examiner agreed with the applicant's arguments, entered the amendment after final of Nov. 14, 2005, withdrew the finality of the last Office action of Aug. 11, 2005 and issued a new Office action.

In view of the history, the relief the applicant requested, namely the withdrawal of the finality of the Aug. 11, 2005 Office Action, has already occurred. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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c/o HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN TX 78720

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OFFICE OF PETITIONS

In re Application of	:	
Benantar	:	
Application No. 09/821,079	:	ON PETITION
Filed: March 29, 2001	:	
Title: Method and System for Public-Key-Based Secure Authentication to Distributed Legacy Application		

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 19, 2004. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 20, 2005. A Notice of Abandonment was mailed on May 27, 2005.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HAMILTON &
TERRILE, LLP
IBM AUSTIN
P.O. BOX 203518
AUSTIN TX 78720

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MAR 16 2010

In re Application of	:	
Benatar, et al.	:	
Application No. 09/821,081	:	DECISION
Filed/Deposited: 29 March, 2001	:	
Attorney Docket No. AUS920010141US1	:	

This is a decision on the petition filed on 2 October, 2006, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

The history of this matter is confused, at best, and most certainly unexplained in that there is no information in the record that suggests the "how" or the "why" as to:

- *the delay between the non-final Office action (September 2004) and the abandonment (December 2004);*
- *the delay between the abandonment and/or the Notice of Abandonment (April 2005) and the filing of a petition to revive (October 2006);*
- *the possible failure to properly file the petition so as to flag the matter for consideration by the Office of Petitions; and*
- *the failure to file even a single Status Inquiry in this matter delay between the filing of a petition to revive and mid-March 2010.*

Petitioner's duty on any renewed petition is to set forth the facts surrounding the matter and support those facts with documentary evidence.

*Moreover, should it occur that the practitioner now attending to this matter be one other than those involved in the events set forth above, Petitioner **must** provide statements from the proper persons involved in those events. Failing that, Petitioner must document a showing of proper and diligent inquiry before submitting further materials to the Office.*

In any case, Petitioner is reminded that the Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel when accepting Petitioner's representation (including Petitioner's submission of supporting documentation) that the delay in filing the response was unintentional.[1]

It was and remains Petitioner's duty to properly docket this and other matters to ensure that a Status Inquiry is timely and properly filed when Petitioner finds that no reply to Petitioner's submission(s) has been received from the Office.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that Petitioner has not satisfied the statement/showing (as to the nature of the delay) requirements pursuant to the regulations at 37 C.F.R. §1.137(b).

BACKGROUND

The record reflects as follows:

Petitioner/former Counsel failed to reply timely and properly to the non-final Office action mailed on 30 December, 2004, with reply due absent and extension of time on or before 30 December, 2004.

The application went abandoned by operation of law after midnight 30 December, 2004.

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[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. ' 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. ' 1.137(b) to the Patent and Trademark Office).

The Office mailed the Notice of Abandonment on 18 April, 2005.

On 2 October, 2006, Petitioner/former Counsel filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b) with fee, and a reply in the form of an amendment and made a statement of unintentional delay, but it is impossible from the current state of the record to determine who has been in control of the application in the interim and who now is in control of the application. Moreover, it appears that:

- the petition may have been electronically submitted and improperly coded; and
- there has been absolutely no inquiry into this matter in the forty-one (41) months since the petition was filed.

Should Petitioner wish to object that telephone inquiries were made in the matter, Petitioner is reminded that that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

These matters must be addressed and documented on any renewed petition.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[4],[5]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

---

[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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PO BOX 2298
27 MILL PLAIN ROAD
DANBURY, CT 06813-2298

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Joan Phillips Waldron, Grace M. Scire' and :
Jacob Segovia :
Application No. 09/821,097 : DECISION GRANTING PETITION
Filed: March 29, 2001 : UNDER 37 CFR 1.47(a)
Title: METHOD AND APPARATUS FOR A :
HEARING AID COUPLING SYSTEM :

This is in response to the petition under 37 CFR 1.47(b), filed August 7, 2001, which has been treated as a petition under 37 CFR 1.47(a).[1] The petition was recently forwarded to this office for review.

The petition is **granted**.

Petitioner has shown that the non-signing inventor, Jacob Segovia, has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Please note, the Power of Attorney, submitted May 24, 2005, has not been entered because a statement under 37 CFR 3.73(b) was not been submitted.

This application is being forwarded to Publishing Division for processing into a patent.

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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JACOB SEGOVIA
789 RIDGE DRIVE
DIVIDE, CO 80814

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of
Joan Phillips Waldron, Grace M. Scire' and
Jacob Segovia
Application No. 09/821,097
Filed: March 29, 2001
Title: METHOD AND APPARATUS FOR A
HEARING AID COUPLING SYSTEM

Dear JACOB SEGOVIA:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

JEFFREY B TRATTNER
ELLIS & TRATTNER PC
PO BOX 2298
27 MILL PLAIN ROAD
DANBURY. CT 06813-2298

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 8, 2007

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No. 09/821103 patent No.: 7135465

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1623

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Mr. Christopher John Rourk
GODWIN GRUBER, LLP
1201 Elm Street, Renaissance Tower
DALLAS TX 75270

COPY MAILED

NOV 09 2005

OFFICE OF PETITIONS

In re Application of
Paul A. Underbrink et al.
Application No. 09/821,110
Filed: March 29, 2001
Attorney Docket No. 99RSS085D
Title: WIRELESS COMMUNICATIONS SYSTEM UTILIZING DIRECTIONAL WIRELESS COMMUNICATION DEVICE

DECISION ON PETITION UNDER 37 C.F.R. §1.182

This is a decision on the petition under 37 C.F.R. §1.182, filed October 20, 2005, to correct the spelling of the name of one of the joint inventors. Office records show that the first named joint inventor is Paul A. Underbink. Petitioner has requested that the spelling of this joint inventor's name be corrected to read "Paul A. Underbrink (emphasis added)."

It is noted that the issue fee was submitted contemporaneously with this petition. The petition fee of $400 has been charged to Petitioner's Deposit Account, as authorized in the petition.

As such, the petition under 37 C.F.R. §1.182 is **GRANTED**. The first-named joint inventor is now listed as:

Paul A. Underbrink

A corrected filing receipt has been enclosed.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. The phone number for the Office of Patent Publication is (703) 308-6789.

Enclosure: Corrected Filing Receipt

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATEN
UNITED STATES PATENT AND TRADEMARK OFFI
WASHINGTON, D.C. 2023
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Paper No. 5

Paul J. Skwierawski
ANTONELLI, TERRY, STOUT &
KRAUS, LLP
1300 North Seventeenth Street, Suite 1800
Arlington, VA 22209

MAILED

JUL 0 7 2003

Technology Center 2100

In re Application of:)
JAINl, et al.)
Application No. 09/821,115) **DECISION ON REQUEST FOR**
Filed: March 30, 2001) **WITHDRAWAL AS ATTORNEY**
For: METHOD OF AN APPARATUS FOR)
MEASURING THE CORRECTNESS
OF AND CORRECTING AN
AUTOMATIC TEST
ARRANGEMENT

This is a decision on the Request To Withdraw from Representation filed June 05, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 05, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

JM Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: KENYON & KENYON
1500 K Street, N.W.
Suite 700
Washington, DC 20005-1257

UNITED STATES PATENT AND TRADEMARK OFFICE

NDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

October 8, 2003

Laurie E. Gathman
U. S. Philips Corporation
Intellectual Property Department
580 White Plains Rd.
Tarrytown, NY 10591

In re application of:

Jack E. Haken DECISION ON PETITION
Serial No.: 09/821,121
Filed: March 29, 2001
For: PERSONAL TV RECEIVER (PTR) WITH PROGRAM RECOMMENDATION FORWARDING FUNCTION

This is a decision on the petition received on April 21, 2003, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed May 7, 2001. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned July 10, 2001. The letter of abandonment was mailed on March 23, 2003.

On April 21, 2003, the office received a communication from the attorney of record. Enclosed was an acknowledgement that the attorney never received the Notice of Missing Parts mailed May 7, 2001.

The evidence submitted is sufficient to establish that the petitioners never received the Notice of Missing Parts mailed May 7, 2001.

The petition is hereby Granted.

The application will be completed with the documents received April 31, 2003 and released to Technology Center 2614.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

NDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

October 8, 2003

Laurie E. Gathman
U. S. Philips Corporation
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580 White Plains Rd.
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In re application of:

Jack E. Haken DECISION ON PETITION
Serial No.: 09/821,121
Filed: March 29, 2001
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The application will be completed with the documents received April 31, 2003 and released to Technology Center 2614.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day (703) 308-3640.

Doshie Day

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 5

HART BAXLEY DANIELS & HOLTON
59 JOHN STREET
FIFTH FLOOR
NEW YORK, NY 10038

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JUN 14 2001

OFFICE OF PETITIONS
A/C PATENTS

In re Application of
Devon Shyu et al.
Application No. 09/821,135
Filed: March 30, 2001
Attorney Docket No. 12170 B

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center 2800.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 13

Hart, Baxley, Daniels & Holton
59 John St., Fifth Floor
New York, NY 10038

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DEC 2 7 2002

OFFICE OF PETITIONS

In re Application of :
Devon Shyu, et al. :
Application No. 09/821,135 : ON PETITION
Filed: March 30, 2001 :
Attorney Docket No. 12170 B :

This is a decision on the petition under 37 CFR 1.137(b), filed November 13, 2002, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability mailed June 24, 2002, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 25, 2002.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

The application file is being forwarded to the Publishing Division for further processing.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF IDO TUCHMAN (YOR)
82-70 Beverly Road
Kew Gardens, NY 11415

MAILED

JUL 09 2007

Technology Center 2100

In re Application of:
Stefan PLEISCH, et al.
Application No. 09/821,168
Filed: March 29, 2001
For: A FAULT-TOLERANT MOBILE AGENT FOR A COMPUTER NETWORK

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed May 1, 2006 under 37 CFR § 1.181 to invoke Supervisory Authority of the Commissioner and require the Examiner to withdraw the finality of the rejection mailed July 19, 2006.

The Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the Final Office Action mailed March 16, 2006. In the petition, Applicant's counsel alleged that the finality of the office action was improper because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection and that the amendment filed does not create any 35 USC 101 issues so therefore neither would justify a new grounds of rejection, therefore the finality of the March 16, 2006 office action is improper and hereby withdrawn.

Accordingly, the petition is **GRANTED.**

The application is being forwarded to the examiner for abandonment because no response has been filed in response to the March 16, 2006 office action. Petitioner is reminded that a petition filed does not stay the requirement to response to an outstanding office action. 37 CFR 11181(f).

Any inquiry concerning this decision should be directed to John Follansbee at (571) 272-3964.

John Follansbee
WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICE OF IDO TUCHMAN (YOR)
82-70 BEVERLY ROAD
KEW GARDENS, NY 11415

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Stefan Pleisch et al.	:	
Application No. 09/821,168	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. CH20000077	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 16, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 19, 2006. (June 17–18, 2006 was a weekend). A Notice of Abandonment was mailed on September 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2152 for appropriate action by the Examiner in the normal course of business on the reply received October 3, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Darin Wayne Higgins et al	:	
Application No. 09/821,172	:	ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. 9090.0002-03	:	

This is a decision on the petition, filed October 7, 2005, and supplemented on October 11, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2672 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, D.C. 20001-4413

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of :
John Willard Howard, Dan Martin Scott and :
Darin Wayne Higgins :
Application No. 09/821,172 :
Filed: March 29, 2001 :
Attorney Docket No. 03030.0002-03 :

ON PETITION

This is in response to the "Petition Under 37 CFR 1.183," filed September 19, 2005, requesting waiver of the appropriate requirements under 37 CFR 1.48(a).

"Pursuant to 37 CFR 1.183, Applicants hereby petition that the attached Declaration/Power of Attorney, executed by John Willard Howard and Dan Martin Scott, be accepted by the U.S. Patent and Trademark Office on behalf of the above-named inventors and the non-signing inventor, Darin Wayne Higgins, who refuses to join in the application."

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, D.C. 20001-4413

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of	:	
John Willard Howard, Dan Martin Scott and	:	
Darin Wayne Higgins	:	DECISION GRANTING PETITION
Application No. 09/821,172	:	UNDER 37 CFR 1.48(a)
Filed: March 29, 2001	:	
Attorney Docket No. 03030.0002-03	:	

This is in response to the "Petition Under 37 CFR 1.48(a)," filed September 19, 2005.

The petition is granted.

The above-identified application was filed on March 29, 2001. Darin Wayne Higgins and Dan Martin Scott were named as joint inventors. On September 19, 2005, the instant petition under 37 CFR 1.48(a) was filed to correct the inventorship and add joint inventor John Willard Howard.

In view of the papers filed September 19, 2005, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of joint inventor John Willard Howard.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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JAN 27 2010

In re Patent No. 7,161,604	:	
Issued: January 9, 2007	:	
Application No. 09/821,172	:	NOTICE
Filed: March 29, 2001	:	
Atty Docket No. 9090.0002-03	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Srinivas GUTTA et al.	:	
Application No. 09/821,183	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. **US010105**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 09, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (3) above. The petition is unsigned and will not be further treated on the merits.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Tredelle Jackson at (571) 272-2783.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Srinivas GUTTA et al.	:	
Application No. 09/821,183	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. **US010105**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 09, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of March 09, 2007 is accepted as having been unintentionally delayed.

The petition fee of $1540 included with instant renewed petition was unnecessary and is being credited to the Deposit Account 14-1270.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2623 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OCT 1 8 2004

OFFICE OF PETITIONS

In re Application of	:	
Edward R. Scalice, et al.	:	
Application No. 09/821,227	:	DECISION ON PETITION
Filed: March 29, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. CDS-236	:	

This is a decision in response to a petition, filed August 27, 2004, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 29, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/193,951, which was filed on March 31, 2000, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/193,951 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204.

The application is being referred to Technology Center AU 1641 for appropriate action on the amendment submitted August 27, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/193,951.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Karen O. Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 11

Audley A. Ciamporcero Jr.
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
J. Guy Breitenbucher, et al. :
Application No. 09/821,244 :
Filed: March 29, 2001 :
Attorney Docket No. ORT 1395 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 6, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action August 23, 2002, which set a shortened statutory period for reply of three(3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 24, 2002.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (703)308-5111, or in her absence, Sherry D. Brinkley at (703)305-9220.

The application file is being forwarded to Technology Center 1600, Art Unit 1625.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

OCT 2 7 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

FISH & RICHARDSON P.C.
45 Rockefeller Plaza
Suite 2800
New York, NY 10111

In re Application of
Kazutoyo MAEHIRO, et al.
Application No. 09/821,267
Filed: March 29, 2001
For: INFORMATION PROCESSING SYSTEM, METHOD FOR MESSAGE COMMUNICATIONS, RECORDING MEDIUM, AND COMPUTER PROGRAM

DECISION ON REQUEST FOR WITHDRAWAL AS ATTORNEY

This is a decision on the Request To Withdraw from Reprsentation filed October 23, 2003.

A Revocation And Substitution Of Power Of Attorney Under 37 CFR § 1. 36 was filed on August 7, 2003. The Power Of Attorney revoked all prior Powers Of Attorney and appointed Greenblum & Bernstein as the attorneys of record of the instant application. The Power Of Attorney of August 7, 2003 was accepted. Accordingly, all communications from the U.S. Patent and Trademark Office to applicant are to be conducted by Greenblum & Bernstein.

For the above stated reasons, the request is **DISMISSED AS MOOT**.

No further communication to you regarding this application will be made.

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
(703) 305-9750

cc: GREENBLUM & BERNSTEIN P.L.C.
1950 Roland Clarke Place
Reston, VA 20191

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Srinivas GUTTA, et al	:	
Application No. 09/821,277	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. US-010098	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2623 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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Paper No. 7
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FISH & RICHARDSON, P.C.
45 Rockefeller Plaza, Suite 2800
New York, New York 10111

In re Application of: Kazutoyo MAEHIRO	)	
Application No. 09/821,279	)	
Filed: March 29, 2001	)	**DECISION ON REQUEST FOR**
For: CLIENT SYSTEM, MESSAGE	)	**WITHDRAWAL AS ATTORNEY**
EXCHANGING METHOD, AND	)	
RECORDING MEDIUM	)	

This is a decision on the Request To Withdraw from Representation filed July 18, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Bruce H. Bernstein, Esq.
GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191-1411

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 10

Roy, Kiesel, Keegan & DeNicola, PLC
2355 Drusilla Lane
Baton Rouge LA 70809

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OFFICE OF PETITIONS

In re Application of :
Brown :
Application No. 09/821,314 :
Filed: March 29, 2001 :
Attorney Docket No. 10508/001 :
For: LAUNDRY CART

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 21, 2004 (certificate of mailing date June 16, 2004), to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

It is noted that Inventor Jerome Brown has signed the instant petition. Applicant has appointed attorneys to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorneys will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorneys of record.

The above-identified application became abandoned for failure to fully reply to the to the Notice to File Missing Parts of Nonprovisional Application, mailed May 9, 2001, which required petitioner to submit an executed oath or declaration, a $65.00 surcharge for the late filing of an executed oath/declaration and substitute drawings in compliance with 37 CFR 1.84 within an extendable two (2) month period. On July 16, 2001 (certificate of mailing date July 11, 2001), Attorney Joseph N. Breaux submitted an executed declaration and power of attorney, a verified small entity statement, a check for the $65.00 surcharge, and a check in the amount of $55.00 for a one month extension of time to reply to the May 9, 2001 Notice. On August 29, 2001, the Office mailed a Notice of Incomplete Reply (Nonprovisional), which reminded petitioner that the substitute drawing requirement was still outstanding and that the original period for reply set in

the May 9, 2001 Notice had not been changed. No timely reply was received in the Office. Accordingly, the above-identified application became abandoned on August 10, 2001. A Notice of Abandonment was mailed on October 24, 2003.

The Office acknowledges receipt a sheet of drawing containing Figure 1, filed with the instant petition.

The revocation and power of attorney filed with the instant petition has been entered and made of record.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof; (2) the petition fee as set forth in § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section. This petition does not satisfy requirement (3).

Regarding (3), the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to have been "unavoidable". 35 USC § 133. Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term 'unavoidable' "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

In the instant case, petitioner has failed to provide adequate evidence that the delay was

unavoidable. Petitioner asserts that the delay in responding fully to the May 9, 2001 Notice was unavoidable due to his attorney's inattention.

Because petitioner was represented by a registered practitioner, the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962). If the attorney made any errors, petitioner is bound by such errors.[1]

The attorney must act reasonably and prudently.

> If [the] attorney somehow breach[es] his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to overlook [the attorney's] action or inaction with regard to the patent application. He hired the [attorney] to represent him. [The attorney's] actions must be imputed to him.[2]

The Seventh Circuit has stated,

> The other assumption is that, if the complainants failed in their application through the negligence of their attorney, the delay would be unavoidable, which is wholly unwarranted in the law. It is of the very nature of negligence that it should not be unavoidable, otherwise it would not be actionable. The negligence of the attorney would be the negligence of the [client]. The purpose of the statute was to put an end to such pleas, and there would be no limit to a renewal of these applications if every application, however remote, could be considered under the plea of negligence of attorneys, by whom their business is generally conducted.[3]

The United States Court of Appeals for the Federal Circuit has stated,

---

[1] See California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

[2] Haines v. Quigg, 673 F. Supp. 314, 317, 5 U.S.P.Q. 2d (BNA) 1130 (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962) ("Petitioner voluntarily chose his attorney as his representative in the action and he cannot now avoid the consequences of the acts or omissions of this freely selected agent ... Each party is deemed bound by the acts of his lawyer-agent and is considered to have 'notice of all facts, notice of which can be charged upon the attorney.'" (emphasis added); Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983) ("Courts hesitate to punish a client for its lawyers gross negligence, especially when the lawyer affirmatively misled the client" but "if the client freely chooses counsel, it should be bound to counsel's actions."); see also Wei v. State of Hawaii, 763 F. 2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983)). See also Smith v. Diamond, 209 U.S.P.Q. (BNA) 1091 (D. D.C. 1981).

[3] Lay v. Indianapolis Brush & Broom Mfg. Co., 120 F. 831, 836 (1903).

> If we were to hold that an attorney's negligence constitutes good cause for failing to meet a PTO requirement, the PTO's rules could become meaningless. Parties could regularly allege attorney negligence in order to avoid an unmet requirement.[4]

In the instant case, the attorney responsible for the prosecution of this case did not act as a reasonable and prudent person in relation to his most important business. Mr. Brown believed that Mr. Breaux would handle any requirements set by the Office. Mr. Breaux did not submit a substitute drawing sheet for his client. Petitioner is informed that the client is responsible for any delay caused by lack of communication between the attorney and client and the delay is not considered unavoidable within the meaning of 37 CFR 1.137(a). In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

While Mr. Brown was prompt in attempting revival once he had notice of this application's abandonment, Mr. Brown must bear the consequences of his chosen representative's mistakes/inattention. Mr. Breaux's health problems have no discernable impact on the analysis at hand because they occurred in August of 2003 and the events at issue occurred in 2001.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

ALTERNATIVE VENUE

Petitioner should consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $ 665.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

---

[4] Huston v. Ladner, 973 F.2d 1564, 1567, 23 U.S.P.Q.2D (BNA) 1910 (Fed. Cir. 1992).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions – E. Shirene Willis

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 12

Roy, Kiesel, Keegan & DeNicola, PLC
2355 Drusilla Lane
Baton Rouge LA 70809

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brown :
Application No. 09/821,314 :
Filed: March 29, 2001 :
Attorney Docket No. 10508/001 :
For: LAUNDRY CART

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2004 (certificate of mailing date October 1, 2004), to revive the above-identified application.

The above-identified application became abandoned for failure to fully reply to the to the Notice to File Missing Parts of Nonprovisional Application, mailed May 9, 2001, which required petitioner to submit an executed oath or declaration, a $65.00 surcharge for the late filing of an executed oath/declaration and a substitute drawing in compliance with 37 CFR 1.84 within an extendable two (2) month period. On July 16, 2001 (certificate of mailing date July 11, 2001), Attorney Joseph N. Breaux submitted an executed declaration and power of attorney, a verified small entity statement, a check for the $65.00 surcharge, and a check in the amount of $55.00 for a one month extension of time to reply to the May 9, 2001 Notice. On August 29, 2001, the Office mailed a Notice of Incomplete Reply (Nonprovisional), which reminded petitioner that the substitute drawing requirement was still outstanding and that the original period for reply set in the May 9, 2001 Notice had not been changed. No timely reply was received in the Office. Accordingly, the above-identified application became abandoned on August 10, 2001. A Notice of Abandonment was mailed on October 24, 2003. Applicant's petition to revive under 37 CFR §1.137(a), filed June 21, 2004 (certificate of mailing date June 16, 2004) was dismissed on August 13, 2004 for failure to show that the entire delay in responding to the May 9, 2001 Notice was unavoidable.

With the instant petition, applicant has submitted the petition fee and a statement that the entire delay in responding to the May 9, 2001 Notice was unintentional. A sheet of drawing containing Figure 1, the reply, was filed on June 21, 2004 (certificate of mailing date June 16, 2004).

The petition to revive under 37 CFR §1.137(b) is **GRANTED**.

After the mailing of this decision, the application file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 9

Pitney Bowes Inc.
Intellectual Property and Technology Law Department
35 Waterview Drive, PO Box 3000
Shelton, CT 06484-8000

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OFFICE OF PETITIONS

In re Application of	:	
Martin Sting et al.	:	
Application No. 09/821,337	:	ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. 1370/12	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2003, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to File Corrected Application Papers (Notice) mailed May 9, 2001, which set a period for reply of (2) TWO months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on July 10, 2001.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Marina Portnova
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ZAFMAN LLP
12400 Wilshire Boulevard
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Los Angeles, CA 90025-1026

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MAY 17 2006

TECHNOLOGY CENTER 2100

In re Application of:
James P. KARDACH
Application No. 09/821,347
Filed: March 29, 2001
For: METHOD AND APPARATUS FOR PROCESSING REAL-TIME EVENTS ASSOCIATED WITH A WIRELESS COMMUNICATION PROTOCOL

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the Request for Reconsideration and Withdrawal of Finality of Office action filed on 03 February 2006. The Request filed 03 February 2006 has been treated as a petition under 37 C.F.R. § 1.181 to review the prematureness of Final rejection mailed on 31 October 2005.

The petition is **GRANTED**.

On 17 August 2005, applicant filed a RCE and an amendment to claims 1, 3, 14 and 19-21. New limitations "wherein the first portion comprises a real-time event circuit to initial execution of a real-time event handler" and "using a real-time event handler initiated by a real-time event circuit within the processor, the processing of the event allowing to maintain the wireless communication protocol" were added to independent claims 1 and 14, respectively.

On 31 October 2005, the examiner finally rejected all claims 1-21 in the first Office action.

On 03 February 2006, petitioner contended that the new limitations added to claims 1 and 14 are to distinguish the amended claims from the cited prior art. Thus, the action immediately subsequent to the filing of RCE may not be made final.

MPEP § 706.07(b) states in part that:

> The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application...

MPEP § 706.07(h)(VIII) states that:

> The action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) for making a first action final in a continuing application are met.

A review of the file indicates that the new limitations added to claims 1 and 14 are not drawn to the same invention as claimed in the earlier amendment filed 12 November 2004. Further, the amendment with the new limitations added to claims 1 and 14 would be required further search and/or consideration if it were presented as an amendment after final Office action.

For the above stated reasons, the petition is **GRANTED.** The final Office action mailed on 31 October 2005 is hereby withdrawn and changed to non-final Office, and applicant's response filed on 03 February 2006 has been treated as a response to the non-final Office action. The RCE filing fee paid on 06 February 2006 is hereby credited to Deposit Account No. 02-2666.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Commissioner for Patents
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1400 Eye St., NW
Suite 300
Washington, D.C. 20005

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TECHNOLOGY CENTER 2100

In re Application of:
James P. KARDACH
Application No. 09/821,347
Filed: October 16, 2003
For: DATA STORAGE MEDIUM HAVING INFORMATION FOR CONTROLLING BUFFERED STATE OF MARKUP DOCUMENT, AND METHOD AND APPARATUS FOR REPRODUCING DATA FROM THE DATA STORAGE MEDIUM

DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition under 37 C.F.R. § 1.181 for Withdrawal of Finality of Office and Restarting of Period for Response filed.

The petition is **GRANTED**.

On 05 September 2005, Petitioner filed a response to an Office Action mailed 05 June 2007. In this response, claims 1-7 are amended to change "data storage" to "computer-readable".

In an Office Action mailed 15 November 2007, the examiner finally rejected all claims 1-9. In this action, the examiner rejected claims 1, and 8-9 as being anticipated by Sullivan for the first time. Claims 1-9 are rejected under 35 USC 101 as being directed to non-statutory subject matter. The claims are alleged to store nonfunctional descriptive material and to include a carrier wave.

In the petition filed on 06 December 2007, Petitioner asserts that the final rejection is premature in that it includes three new grounds of rejection not necessitated by amendments. To buttress his position, Petitioner directs attention to paragraph 95 of the specification as originally filed which discloses that the invention includes "...permanent and removable storage, such as magnetic and optical discs, RAM, ROM, a carrier wave medium, etc...". Petitioner also alleges that amendments made to claims 1-7 did not necessitate application of Sullivan as "the Examiner has not identified any element in Sullivan that can be considered to be a 'computer-readable' medium but not a 'data storage' medium". Finally, Petitioner alleges that use of Goodman and the Heritage College Dictionary to define "interactive" in the Examiner's response to arguments constitutes a new ground of rejection.

I. As noted in MPEP 706.07(a),

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

As acknowledged by Petitioner, neither "computer-readable" or "data storage" has antecedent basis in the specification. However, the portion of the specification that would provide support for these terms, paragraph 95, makes clear that the carrier wave medium, RAM, and ROM are all examples of storage. Thus, "data storage" and "computer-readable" mediums should both be interpreted to include carrier waves. Inclusion of the rejection of claims 1-9 under 35 USC 101 as including carrier waves for the first time in the Final Rejection was therefore inappropriate.

As to arguments presented traversing use of Sullivan as a basis of the rejection, the relevant issue is whether a previously applied reference could be used to address new limitations added to an amended claim, not whether a newly cited reference could be used to address limitations as originally presented. In this case, amending the claims from "data storage" to "computer readable" did not necessitate application of a new reference (Sullivan).

Finally, Goodman and the American Heritage College Dictionary were used to rebut arguments advanced by the Applicant. They do not form the basis of a rejection and are not considered a new ground of rejection.

II. As noted in MPEP 710.06,

> Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant.

Errors in the Office Action mailed 15 November 2007 are noted above, and Petitioner has requested that the period for response be restarted.

For the above stated reasons, the petition is **GRANTED**. The finality of the Office Action mailed on 15 November 2007 is hereby withdrawn and the status of that Action is changed to non-final. The period of response will be reset to start Three Months from the date of this Decision.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail O. Hayes/

Gail O. Hayes
Special Program Examiner/Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Paper No. 6

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

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DEC 0 3 2001

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Yeung :
Application No. 09/821,387 :
Filed: March 28, 2001 :
Attorney Docket No. 25821P031 :

This is a decision on the petition filed August 13, 2001, to accord the above-identified application a filing date of March 28, 2001, instead of July 3, 2001.

The petition is **granted.**

Petitioner has established that the application was deposited with the Unites States Post Office in compliance with 37 CFR 1.10 on March 28, 2001.

The original filing receipt stated the filing date as March 28, 2001.

Due to an apparent, clerical error by an employee of the Patent and Trademark Office, the filing date was incorrectly changed to July 3, 2001, when the declaration was submitted on that date. The error will be corrected. The filing date for the application is March 28, 2001.

The Notice of Missing Parts mailed on May 7, 2001, required substitute drawings. Petitioner should note that Office records do not indicate receipt of substitute drawings.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of March 28, 2001.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 10

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025

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JUN 06 2002

OFFICE OF PETITIONS

In re Application of
Steve Wai Leung Yeung
Application No. 09/821,387
Filed: March 28, 2001
Attorney Docket No. 25821P031

DECISION ON PETITION

This is a decision on the petition filed January 22, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file substitute formal drawings as required by the Notice to File Missing Parts mailed May 7, 2001. This Notice set a shortened statutory period for reply of three (2) months. No substitute drawings having been received, the above-identified application became abandoned on July 8, 2001. The mailing of the instant decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made a statement of unintentional delay, and submitted substitute drawings. 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3). The statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application file is being forwarded to Technology Center 2600 for examination.

Telephone inquiries concerning this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No. 15

NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 430/2
EAST HANOVER NJ 07936-1080

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JUN 1 0 2004

OFFICE OF PETITIONS

In re Application of	:	
Allgeier et al.	:	
Application No. 09/821,416	:	DECISION DISMISSING
Filed: 29 March, 2001	:	PETITION
Atty Docket No. 4-30652A/C1/30889	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 21 January, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed nonprovisional Application No. 09/220,813, filed on 23 December, 1998.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after 29 November, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;[1]

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was

[1]Any nonprovisional application or international application designated the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designated the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS))to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition is dismissed because copendency does not exist between the instant pending application, filed on 29 March, 2001, and the application for which the benefit under 35 U.S.C. § 120 is claimed. A review of Office PALM records indicates that the prior application became abandoned on 16 January, 2001, for failure to respond to the Office action requiring restriction mailed on 15 December, 1999, which set a 30 day shortened period for reply.

Petitioners may wish to consider filing a petition to revive the prior application for copendency with the present application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, copendency must exist between the prior filed application and the application claiming benefit of the prior-filed application under 35 U.S.C. § 120.

As a one (1) month extension was required to make the reply filed on 21 January, 2004, a timely reply, a one (1) month time extension has been charged to counsel's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window
Crystal Plaza 2, Lobby, Room 1B03
Arlington, VA 22202

OR (for responses delivered on or after 5 June, 2004)

U.S. Patent and Trademark Office
220 20th Street S.

Application No. 09/821,416

Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

The application is being forwarded to Technology Center 1600 for further processing.

Telephone inquires should be directed to Senior Petitions Attorney Douglas I. Wood at 703-308-6918.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARBY & DARBY
PROFESSIONAL CORPORATION
805 THIRD AVENUE
NEW YORK, NY 10022-7513

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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Fujiyama, Koji :
Application No. 09/821,434 : ON PETITION
Filed: March 28, 2001 :
Attorney Docket No. 04970/000J035-US0 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 10, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the non-final Office action mailed October 28, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 29, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 2600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

05 SEP 2001
UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Epstein, Edell, Shapiro, Finnan & Lytle, LLC
1901 Research Blvd., Suite 400
Rockville, MD 20850-3164

#7

In re Application of	:	
Talley, Jr. et al.	:	
Application No. 09/821,456	:	DECISION ON
PCT No.: PCT/US99/23267	:	
Priority Date: 06 October 1999	:	PAPERS UNDER
Int. Filing Date: 06 October 1998	:	
Atty. Docket No.: 0818.0104C	:	37 CFR 1.42
For: Splittable Multicomponent	:	
Elastomeric Fibers	:	

This is a decision on the "Response To Notification Of Defective Response" filed on 26 November 2001, which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 06 October 1999, and claimed an earliest priority date of 06 October 1998. A Demand electing the United States was filed on 08 May 2000, which was prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired as of midnight on 06 April 2001.

On 06 April 2001, applicants filed, *inter alia*, the required basic national fee.

On 08 May 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration of the inventors in compliance with 37 CFR 1.497(a) and (b).

On 09 October 2001, applicants filed a "Response To Notification Of Missing Requirements" accompanied by a declaration of the inventors.

On 24 October 2001, a Notification Of Defective Response was mailed to applicants, indicating that the oath or declaration "is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68" and requiring applicants to complete the response.

Applicants filed the instant "Response" on 26 November 2001.

DISCUSSION

Review of the declaration filed on 09 October 2001 reveals that it was properly executed on behalf joint inventor Jing-Peir Yu by Shiang-Jung Ma Yu, acting in the capacity of legal representative for Jing-Peir Yu in accordance with 37 CFR 1.42. As such, the declaration is proper. The Notification Of Defective Response mailed on 24 October 2001 was in error and is hereby **VACATED**.

DECISION

The request under 37 CFR 1.42 is **GRANTED**.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing, including the preparation and mailing of a Notification of Acceptance (Form PCT/DO/EO/903). The date of this application under 35 U.S.C. 371 is **09 October 2001**.

Richard Cole
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (703) 308-6721
Fax: (703) 308-6459

UNITED STATES PATENT AND TRADEMARK OFFICE

Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 14

EDWARD D. MANZO
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 WEST ADAMS ST., STE. 2850
CHICAGO IL 60606

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JAN 0 8 2003

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shunpei Yamazaki et al
Application No. 09/821,473
Filed: March 29, 2001
Attorney Docket No. SEL-137 DIV

This is a decision on the petition, filed by facsimile transmission on January 7, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 11, 2002 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the application will be forwarded to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice must be made in writing and should be accompanied by the new Issue Fee Transmittal Form PTOL-85(b), along with a copy of this decision. Additionally, if the issue fee has increased from the previously paid issue fee, the balance due must be submitted. **Failure to *timely* request *in writing* that the previously paid issue fee be applied towards the new Notice and payment of any balance due will result in the abandonment of the application.**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FL
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of Lu :
Application No. 09/821,509 :
Filing Date: March 29, 2001 :
Attorney Docket No. SNS-010 :

Decision on Petition

This is a decision on the petition filed May 31, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law.

A Notice of Allowability was mailed October 28, 2005. The Notice of Allowability required the submission of corrected drawings within three months.

Petitioner did not file a response to the Notice of Allowability within three months. The Office did not withdraw the drawing requirement, by mailing a supplemental Notice of Allowability, on or before January 28, 2006. Therefore, per 35 U.S.C. 133, the application is abandoned. Therefore the application is abandoned.

Petitioner should note 35 U.S.C. 133 does not distinguish "correct" Office actions from "incorrect" Office actions. Therefore, abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement, later determined by the Office to be untenable as drafted, the application will still be abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing *prior to* the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Since the application is abandoned as a matter of law, the application will remained abandoned unless revived pursuant to 37 CFR 1.137. Petitioner may wish to file a petition under 37 CFR 1.137(a). A blank petition under 37 CFR 1.137(a) form is attached.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Form PTO/SB/61

PTO/SB/61 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)

First Named Inventor: Art Unit:

Application Number: Examiner:

Filed:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United Sates Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.
NOTE: A grantable petition requires the following items:
(1) Petition fee.
(2) Reply and/or issue fee.
(3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☐ Small entity – fee $_____ (37 CFR 1.17(l)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $_____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____ .

☐ is enclosed herewith.

B The issue fee of $ _____

☐ has been filed previously on _____ .

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosure
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unavoidable delay
☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

Signature	Date
Typed or printed name	Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE 14TH FL
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of Lu :
Application No. 09/821,509 : Decision on Petition
Filing Date: March 29, 2001 :
Attorney Docket No. SNS-010 :

This is a decision on the petition filed August 15, 2006, under 37 CFR 1.137(a) to revive the above-identified application.

The petition is **granted.**

A Notice of Allowability was mailed October 28, 2005. Due to a mistake by the examiner, the Notice of Allowability required the submission of corrected drawings within three months.

Petitioner did not file a response to the "erroneous" Notice of Allowability within three months. The Office did not withdraw the drawing requirement, by mailing a supplemental Notice of Allowability, on or before January 28, 2006. Therefore, per 35 U.S.C. 133, the application became abandoned on January 29, 2006.

The instant petition seeks revival of the application. Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the petition is granted.

The Office of Publications will be informed of the instant decision and will take steps to issue the application as a patent in due course. The Office of Publications should note the requirement for drawings in the Notice of Allowability was inadvertent and new drawings are not necessary.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

MAY 14 2010

OFFICE OF PETITIONS

Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York, NY 10281-2101

In re Toshikazu Tamura
Application No.: 09/821,517
Filed: March 29, 2001
Patent No.: 6,510,202
Issued: January 21, 2003

DECISION DISMISSING PETITION

This is a decision on the April 12, 2007 petition titled "Petition For Corrected Patent To Be Reprinted," which requests U.S. Patent No. 6,510,202 ("the '202 patent") to be corrected and reprinted ("the April 12, 2007 petition").

The April 12, 2007 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The April 12, 2007 petition is **dismissed**.

The April 12, 2007 petition seeks to have the '202 patent corrected and reprinted with the August 12, 2002 substitute specification in place of the March 29, 2001 original specification. According to the petition, "the printer erroneously disregarded the August 12, 2002 Substitute Specification and Abstract," which "included approximately ninety-two (92) separate amendments involving twenty-six (26) separate pages of the originally filed eighty-four (84) page Specification and Abstract."

35 U.S.C. 254 is titled "Certificate of correction of Patent and Trademark Office mistake" and is the sole provider of statutory authority for the Office to issue a corrected patent. It provides: "[w]henever a mistake in a patent, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, the Director ***may*** issue a certificate of correction ...." (Emphasis added.) The last line of 35 U.S.C. 254 states that "[t]he Director ***may*** issue a corrected patent without charge in lieu of and with like effect as a certificate of correction." (Emphasis added.)

37 CFR 1.322(b) is the regulation implementing 35 U.S.C. 254; it provides:

> If the nature of the ***mistake on the part of the Office*** is such that a certificate of correction is deemed inappropriate in form, the Director ***may*** issue a corrected patent in

> lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee. [Emphasis added.]

Thus, issuance of a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office, ***and*** in which a certificate of correction is deemed inappropriate in form. In addition, as explained at MPEP 1480, "[t]he Office ... has discretion under 35 U.S.C. 254 to decline to issue a Certificate of Correction even though an Office mistake exists." Therefore, it necessarily follows from the language of the statute, the regulation, and MPEP 1480 that the Office has discretion to decline to issue a corrected patent.

In the present case, assuming, *arguendo*, that the mistakes identified in the April 12, 2007 petition are mistakes incurred through the fault of the Office, the identified mistakes do not justify issuance of a corrected patent. Specifically, a certificate of correction is appropriate in form to correct the mistakes identified in the April 12, 2007 petition.

In this regard, the April 12, 2007 petition states that "[d]ue to the large number of changes made in the Substitute Specification and Abstract, Patentees respectfully submit that correction of the patent via the normal Certificate of Correction provisions provided for under 37 CFR § 1.322 would be an ineffective way to correct the patent." However, a certificate of correction is typically appropriate in form where, as here, the errors are less than substantially the entire document. Indeed, a certificate of correction is the normal mechanism for correcting a patent with errors on the scale reflected by the April 12, 2007 petition. The Office regularly issues certificates of correction for twofold and up to tenfold the number of mistakes identified in the April 12, 2007 petition. In contrast, a certificate of correction has been deemed inappropriate in form where, for example, a patent is issued with the specification from a completely different application.

For the foregoing reasons, the April 12, 2007 petition is **dismissed**.

Petitioner is advised to file a request for certificate of correction to correct the errors identified in the April 12, 2007 petition.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SNELL & WILMER LLP
1920 MAIN STREET
SUITE 1200
IRVINE, CA 92614-7230

COPY MAILED

MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Hideki Fujimori, et al. :
Application No. 09/821,525 : ON PETITION
Filed: March 29, 2001 :
Attorney Docket No. NAK1-BO30 :

This is a decision on the petition, filed January 10, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed August 4, 2004, which set a statutory period for reply of three (3) months.

The application is being forwarded to the Office of Publications to oversee the review of the drawings filed January 10, 2005.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (703) 305-8283.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT E MALM
16624 PEQUENO PLACE
PACIFIC PALISADES CA 90272

RECEIVED
DEC 23 2008
OFFICE OF PETITIONS

In re Application of :
Randall K. Curey et al. :
Application No. 09/821,537 :
Filed: March 28, 2001 :
Attorney Docket No. NG(NDS)018807 US CIP :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 18, 2008 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 19, 2008. *See* MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584 .

This application is being referred to Technology Center AU 2452 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Christopher P. Harris
1300 East Ninth Street, Suite 1700
Cleveland, OH 44114

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)
NG(NSD)018807 US CIP

First named inventor: Randall K. Curey, et al.

Application No.: 09/821,537 Art Unit: 2126

Filed: 28 March 2001 Examiner: Farhood Moslehi

Title: Partitioned Executive Structure for Real-Time Programs

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☑ Other than small entity – fee $ 1,620.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment and RCE (identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Christopher P Harris/	2 December 2008
Signature	Date
Christopher P. Harris	43,660
Typed or printed name	Registration Number, if applicable
1300 East Ninth Street, Suite 1700	216.621.2234
Address	Telephone Number
Cleveland, OH 44114	
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

2 December 2008	/Lisa L Pringle/
Date	Signature
	Lisa L. Pringle
Filed Via EFS	Typed or printed name of person signing certificate

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Dennis S. Fernandez
FERNANDEZ & ASSOCIATES LLP
1047 El Camino Real
Suite 201
Menlo Park, CA 94025

MAILED

JUN 2 5 2005

Technology Center 2100

In re Application of:
Mark M. Ishikawa
Application No. 09/821,565
Filed: March 29, 2001
For: SYSTEM, METHOD AND APPARATUS FOR DETECTING, IDENTIFYING AND RESPONDING TO FRAUDULENT REQUESTS ON A NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed May 09, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 09, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: ORRICK, HERRINGTON & SUTCLIFFE, LLP
1620 Marsh Road
Menlo Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORPORATION TJ WATSON RESEARCH CENTER
PO BOX 218
YORKTOWN HEIGHTS NY 10598

COPY MAILED

SEP 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Riordan, et al.	:	
Application No. 09/821,584	:	ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. CH920000010US1	:	

This is a decision on the petition filed on April 22, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on April 29, 2005. Applicants filed an Amendment on November 2, 2005, made timely by obtaining a three month extension of time and including a Certificate of Mailing dated October 29, 2005. However, on November 15, 2005, the Office mailed an Advisory Action, informing Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on October 30, 2005.

With the instant petition, applicant paid the petition fee, submitted the required reply in the form of an RCE, and made the proper statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2137 for consideration of the RCE, filed April 22, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 14

ROBERT J. DEPKE LEWIS T. STEADMAN
HOLLAND & KNIGHT LLC
131 SOUTH DEARBORN
30TH FLOOR
CHICAGO, IL 60603

NOV 3 2004

In re Application of:	:	
IKEDA, HIROYUKI	:	
Application No. 09/821,636	:	DECISION ON PETITION TO
Filed: March 29, 2001	:	WITHDRAW HOLDING OF
Attorney Docket No.: 09792909-4795	:	ABANDONMENT

This is a decision on the petition filed, April 12, 2004, requesting withdrawal of the holding of abandonment for the above-identified application.

The petition is granted.

The application was held abandoned for failure to respond to the Office action mailed March 19, 2003. A Notice of Abandonment was mailed November 18, 2004.

Petitioner asserts that on April 24, 2003, a response was timely filed. To support this assertion, petitioner has submitted a copy of the response and a copy of an itemized postcard date stamped by the United States Patent and Trademark Office (PTO) on September 19, 2003.

A review of the application file record reveals that the above-identified response was not associated with the application file at the time the Notice of Abandonment was mailed, but has since been located and matched therewith.

For the above stated reason, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for appropriate action.

Inquiries regarding this decision should be directed to Lissi Mojica Marquis at (571) 272-1596.

James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED
FEB 03 2010

In re Patent No. 7,190,377	:	
Issued: March 13, 2007	:	
Application No. 09/821,638	:	NOTICE
Filed: March 29, 2001	:	
Atty Docket No. 09090.0003-01000	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

RECEIVED
FEB 2 2 2002
TECH CENTER 1600/2900

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/821,694	03/28/2001	William Daniel Hillis	0450-0001

OIPE
FEB 1 4 2002
PATENT & TRADEMARK OFFICE

23980
REED & ASSOCIATES
800 MENLO AVENUE
SUITE 210
MENLO PARK, CA 94025

CONFIRMATION NO. 9199
FORMALITIES LETTER
OC000000007148458

Date Mailed: 12/03/2001

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 2 - COPY TO BE RETURNED WITH RESPONSE

Box. Seq. 1645

I certify that this correspondence is being deposited with the U. S. Postal Service as first class mail in an envelope addressed to: Box Sequence, Commissioner for Patents, Washington, DC 20231 on February 4, 2002.

Dated: 2/4/02 By: _____

Atty Docket No. 0450-0001

OIPE JC14 FEB 12 2002 PATENT & TRADEMARK OFFICE

RECEIVED FEB 22 2002 TECH CENTER 1600/2900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

William Daniel HILLIS

Group Art Unit: 1645

Serial No.: 09/821,694

Examiner: To be assigned

Filing Date: March 28, 2001

Title: METHOD AND SEQUENCES FOR DETERMINATE NUCLEIC ACID HYBRIDIZATION

TRANSMITTAL OF SEQUENCE LISTING AND SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Box Sequence
Commissioner for Patents
Washington, DC 20231

Sir:

The following documents are enclosed for filing in the subject application:

1) Copy of Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, dated December 3, 2001;

2) Response to Notice to Comply;

3) Statement to Support Filing and Submission in Accordance with 37 C.F.R. §§ 1.821-1.825;

4) Sequence Listing - hard copy;

5) Computer Diskette with Sequence Listing in computer readable form;

6) Supplemental Information Disclosure Statement; and

7) PTO 1449 (with copies of references BL-BO).

No fee should be due in connection with the filing of these documents. However, in the unlikely event that the Patent Office determines that any fees are necessary, applicant authorizes the Commissioner to charge our Deposit Account No. 18-0580 for any such fees that may be due. **A duplicate copy of this sheet is enclosed.**

Respectfully submitted,

Date: 2/4/02

By: Dianne E. Reed

Dianne E. Reed
Registration No. 31,292

REED & ASSOCIATES
800 Menlo Avenue, Suite 210
Menlo Park, California 94025
(650) 330-0900 Telephone
(650) 330-0980 Facsimile

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

REED & EBERLE LLP
800 MENLO AVENUE, SUITE 210
MENLO PARK CA 94025

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MAR 0 4 2004

OFFICE OF PETITIONS

Applicant: Hillis
Appl. No.: 09/821,694
Filing Date: March 28, 2001
Title: METHOD AND SEQUENCES FOR DETERMINATE NUCLEIC ACID HYBRIDIZATION
Attorney Docket No.: 0450-0001
Pub. No.: US 2003/0134277 A1
Pub. Date: July 17, 2003

This is a decision on the request for corrected patent application publication under 37 CFR 1.221(b), filed on September 22, 2003 for the above-identified application.

The request is granted.

The instant request is that the application be republished because the patent application publication ends at page 20, line 7 of the application as originally filed and is missing the rest of the specification.

The corrected patent application publication will be published in due course.

Inquires concerning this communication should be directed to Mark Polutta at (703) 308-8122 (voice) or (703) 746-3465 (facsimile).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
David Clive Moshal et al	:	
Application No. 09/821,704	:	DECISION ON PETITION
Filed: March 28, 2001	:	TO WITHDRAW
Attorney Docket No. 23370-712	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 6, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by U.P. Peter Eng on behalf of all attorneys/agents of record who are associated with customer No. 021971.

All attorneys/agents associated with the Customer Number 021971 have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor or the assignee of the entire interest at the below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3624 to await a reply to the non-final Office action mailed March 24, 2006.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: BINGHAM McCUTCHEN
THREE EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

DAVID CLIVE
1855 PACIFIC AVENUE #205
SAN FRANCISCO, CA 94109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070427

DATE : April 27, 2007

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 6,734,289

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Valerie Jackson
Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** — All changes apply.

☒ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments:

The amendments to the claims and Table at column 13, line 30 are approved. The amendment to the claims is consistent with the claims as allowed in the 18 December 2003 Examiner's amendment and merely corrects printer errors. The amended Table merely adds a title and lines demarcating the columns and rows.

The amendement to the sequence listing filed with the cover letter dated and mailed March 8, 2007 is NOT approved. First, the submission is unsigned. Second, the amendment alters the scope of the claims by modifying the amino acid sequence of the claimed invention such that a new examination is required.

Joe Woitach

SPE: Art Unit 1636

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090323

DATE : March 23, 2009

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction on Patent No.: 6,734,289

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

As stated in the COCX dated 4/30/2007, the amendments to the claims are approved. The amendment to the claims is consistent with the claims as allowed in the 18 December 2003 Examiner's amendment and merely corrects printer errors.

Please issue a supplemental certificate of correction that includes the claim amendments filed in teh 3/9/07 request.

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATRICK J. HALLORAN
AVENTIS PASTEUR
DISCOVERY DRIVE
SWIFTWATER, PA 18370

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MAY 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Pedyczak et al.	:	
Application No. 09/821,734	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. API-02-07-US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed April 29, 2005, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the Notice of Non-Compliant Amendment mailed June 18, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on July 19, 2004. A Notice of Abandonment was mailed February 1, 2005.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

This matter is being referred to Technology Center 1600 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. 5

KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH CA 92660

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APR 05 2002

OFFICE OF PETITIONS

In re Application of:	
Michael S. Dashefsky and	
Edward R. Larson	
Application No. 09/821,774	
Filed: March 29, 2001	DECISION GRANTING
Title of Invention: COMPUTER	STATUS
PROCESS FOR MODELING FLOW OF	UNDER 37 CFR 1.47(a)
PATIENTS THROUGH HOSPITAL UNITS	

This is in response to a Petition Under 37 C.F.R. 1.47(a), filed January 16, 2002, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Michael S. Dashefsky, refuses to sign the declaration after being presented with the above-identified application and declaration.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for continued processing.

E. Sherene Willis for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Michael S. Dashefsky
24421 Ardisa
Mission Viejo, CA 92692

In re Application of:
Michael S. Dashefsky and
Edward R. Larson
Application No. 09/821,774
Filed: March 29, 2001
Title of Invention: COMPUTER PROCESS FOR MODELING FLOW OF PATIENTS THROUGH HOSPITAL UNITS

LETTER

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APR 05 2002

OFFICE OF PETITIONS

Dear Mr. Dashefsky:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Derek L. Woods at (703) 305-0014. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

E. Shenn Willis for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUL 26 2005

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

In re Application of	:
Sunil Kumar Verma et al	:
Serial No.: 09/821,782	: PETITION DECISION
Filed: March 29, 2001	:
Attorney Docket No.: U 013365-9	:

This is in response to the petition under 37 CFR 1.181, filed June 17, 2005, for withdrawal of abandonment of the above identified application based on filing of a timely reply.

A review of the file history shows that the examiner mailed an Office action to applicants on November 29, 2004, setting a three month shortened statutory period for reply. The examiner mailed a Notice of Abandonment to applicants on June 1, 2005, one day after the expiration of the six month statutory period for reply. Applicants replied on May 31, 2005 (May 29, 2005, being a Sunday and May 30, being a holiday), including a request for a three month extension of time and fee therefor. In view of the timely reply the Notice of Abandonment was mailed in error and is withdrawn and the application is restored to pending status with the mailing of this decision

The petition is **GRANTED**.

The application will be forwarded to the examiner for further action.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number 571-273-8300.

George C. Elliott
Director, Technology Center 1600

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MCDERMOTT, WILL & EMERY
4370 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92122

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Biaoyang Lin :
Application No. 09/821,812 :
Filed: March 28, 2001 :
Attorney Docket No. P-IS 4373 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee and publication fee, if applicable, on or before June 8, 2005. Accordingly, this application became abandoned on June 9, 2005. A Notice of Abandonment was mailed on October 25, 2005.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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DIW 12-01

Paper No. 10

HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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JAN 0 8 2002

OFFICE OF PETITIONS

In re Application of	:	
Goto et al.	:	
Application No. 09/821,816	:	LETTER
Filed: 29 March, 2001	:	
Attorney Docket No. 9319S-000197	:	

This letter is in response to the paper styled "Request for Corrected Official Filing Receipt" filed on 12 October, 2001, requesting correction of the filing date of the above-identified application.

The request is **GRANTED**.

The application was filed on 29 March, 2001. The specification consisted of 20 pages of Japanese text and 14 sheets of drawings with Japanese text. On 14 May, 2001, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application" requiring, *inter alia*, an English translation of the application. In response, on 16 July, 2001 (certificate of mailing date 13 July, 2001), applicants filed, inter alia, 23 pages of specification, including claims and an abstract, and 14 sheets of drawings. It appears that the application was inadvertently assigned the date the English translation was filed as the filing date.

The application is being returned to OIPE for correction of the filing date to 29 March, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood at (703) 308-6918.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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FOGG AND ASSOCIATES, LLC
P.O. BOX 581339
MINNEAPOLIS MN 55458-1339

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
John SABAT, Jr. et al. :
Application No. 09/821,820 :
Filed: March 29, 2001 :
Attorney Docket No. 3176.1001-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 24, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of January 24, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 2142 for appropriate action on the concurrently filed amendment.

Brian Hearn
Petitions Examiner
Office of Petitions

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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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MAY 0 6 2004
OFFICE OF PETITIONS

In re Application of
John J. Varone, et al. :
Application No. 09/821,830 : ON PETITION
Filed: March 29, 2001 :
Attorney Docket No. 0100.2034-001 :

This is a decision on the petition under 37 CFR(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed May 3, 2004.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid, April 14, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (703) 305-9220.

The application is being forwarded to Technology Center 2839 for further processing of the request for continued examination under 37 CFR 1.114 filed April 30, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: " Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Tuschl et al.	:	
Application No. 09/821,832	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 0399.2008-002	:	

This is a decision on the petitions under 37 CFR §§ 1.36(a) and 1.183, filed July 20, 2009 and supplemented August 10, 2009, on behalf of Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. (Max-Planck), requesting revocation of power of attorney and waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners. This decision also addresses the response in opposition filed July 31, 2009 on behalf of Whitehead Institute for Biomedical Research (Whitehead), Massachusetts Institute of Technology (M.I.T.), and the University of Massachusetts (UMass).

The petitions are **GRANTED** to the extent indicated below.

Petitioner, Max-Planck, requests the USPTO to: (1) waive the single signature requirements of Rule 1.32(b)(4) due to an ongoing dispute, including litigation, with both the co-assignees and the practitioners at Wolf Greenfield & Sacks, P.C.; and (2) allow the appointment of attorneys Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. No. 36,105 as its representatives before the USPTO.

The application as filed named Thomas Tuschl (Tuschl), Phillip D. Zamore (Zamore), Phillip A, Sharp (Sharp), and David P. Bartel (Bartel) as inventors. The assignment records of the USPTO indicate: at reel/frame 012089/0934 that Tuschl assigned his rights to both Max-Planck and Whitehead, at reel/frame 012089/0914 that Zamore assigned his rights to UMass, at reel/frame 012089/0942 that Sharp assigned his rights to M.I.T., and at reel/frame 012089/0904 that Bartel assigned his rights to Whitehead. However, the recording of a document pursuant to 37 CFR 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. Such a determination must be made by a court of appropriate jurisdiction. Nonetheless, USPTO assignment records do suggest that Max-Planck has an interest in the instant application such that none of the co-assignees own the entire right, title and interest in this application. *See Ethicon, Inc. v. United States Surgical Corp.*, 135

F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir. 1998), *cert denied*, 525 U.S. 923 (1998). The co-assignees are each but a *partial* assignee. *But see* 37 CFR 3.71(b)(2).

Only the owner of the *entire* right, title and interest in an application has the sole right to control prosecution of an application. *See In re Goldstein*, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988); see also *In re Scold*, 195 USPQ 335,336 (Comm'r Pat. 1976); *Ex parte Harrison,* 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR §§ 1.36, 3.71, and 3.73(b)) serve to assure that papers filed with USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* right, title and interest in the application or patent. *See Goldstein*, 16 USPQ2d at 1964. Nonetheless, papers revoking a power of attorney in an application (or giving a power of attorney) will be accepted by the Office when signed by less than all of the applicants or owners of the application when they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. *See* MPEP 402.10.

The response filed July 31, 2009 asserts that the sole right to control the instant application is set by contract. However, agreements made by contract are not construed by the USPTO in relation to the revocation and appointment of power of attorney since state law governs contractual obligations and transfers of property rights, including those relating to patents. *See Regents of the University of New Mexico v. Knight*, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). If a court clearly decides this matter, the court decision and the appropriate power of attorney documents should be promptly filed in this application. Absent a clear determination by an appropriate authority regarding representation of the parties in the instant application, the alleged contractual agreements that established representation in this case will not determine a party's sole right to control the case. Thus, the principles set forth in *In re Goldstein* remain valid here.

Also, the response's speculation that Max-Planck is motivated by nefarious purposes and should not be able to appoint counsel of its choosing is not relevant since a party's future intent is not considered by the USPTO in this situation. The Office is not the best forum in which to determine a party's intent. Such intent is best determined when the trier of facts can observe demeanor of witnesses subjected to cross-examination. A court, with subpoena power, is presently the best forum to consider such an issue. The court proceeding involves two participating adverse parties and the courts, not the Office, are in the best position to fashion an equitable remedy to fit the precise facts of the case. Accordingly, the speculated intent of Max-Planck will not determine that party's representation in this application. Moreover, any future harm caused by the actions (or inactions) of Max-Planck may find relief in a court of appropriate jurisdiction.

Since Max-Planck and the other co-assignees have divergent interests, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the others. Furthermore, denying Max-Planck the ability to choose its own counsel and

requiring Max-Planck to have its interests represented by an opposing party in litigation would not be appropriate for the USPTO. The ongoing disputes, including litigation, between Max-Planck and both the co-assignees and the practitioners at Wolf Greenfield & Sacks, P.C provide sufficient cause for Max-Planck to revoke a power of attorney that it previously gave and an extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) so that Max-Planck may appoint counsel of its choosing.

In accordance with MPEP 402.10, the requested appointment of Robert B. Murray Reg. No. 22,980, Nancy Linck Reg. No. 31,920, and Monica Kitts Reg. No. 36,105 to represent Max-Planck is **granted** as of the mail date of this decision. The revocation and appointment of new counsel applies only to Max-Planck and those to whom it's right, title and interest are assigned. The practitioners of Wolf Greenfield & Sacks, P.C may continue to represent the other co-assignees.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent—must be signed by both: (1) a registered practitioner representing Max-Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

Since there is no agreement between the parties as to the correspondence address, the correspondence address for this application will remain with Wolf Greenfield & Sacks, P.C, as they were first named in the application. *See* MPEP 402.10. Also, Wolf Greenfield & Sacks, P.C will be responsible for coordinating replies or submissions to the USPTO, unless the parties otherwise agree after the mailing date of this decision.

This decision is being mailed to the address of record for the above-identified application. In order to ensure that the requesting party is notified of the decision, the decision is also being forwarded to the address on the petition. However, future correspondences will be forwarded to the address of record unless the address is properly changed.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

This application is being referred to Technology Center 1600. The Technology Center is advised that communications filed on or after the mailing date of this decision not signed in accordance with this decision must also be regarded as informal, and as such, to take the action it deems appropriate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Tuschl et al. :
Application No. 09/821,832 :
Filed: March 30, 2001 :
Attorney Docket No. 0399.2008-002 :

This is a decision on the request for reconsideration filed October 22, 2009 on behalf of Whitehead Institute for Biomedical Research (Whitehead), Massachusetts Institute of Technology (M.I.T.), and the University of Massachusetts (UMass). The petition filed October 22, 2009 requests that the USPTO vacate the decision on the petitions filed under 37 CFR §§ 1.36(a) and 1.183 granting revocation of power of attorney and waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners. This decision also addresses the response in opposition filed November 2, 2009 on behalf of Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. (Max-Planck).

The request for reconsideration is **DISMISSED**.

The decision mailed September 3, 2009 by the USPTO indicated that due to the existing conflict of interest between the parties "...a clear determination by an appropriate authority regarding representation of the parties in the instant application" was required before any party would gain the sole right to control the case. Petitioner now submits a decision by the U.S. District Court for the District of Massachusetts on a requested preliminary injunction to establish the representation of the parties. However the decision is not a clear determination regarding representation of the parties.

The District Court's decision mostly focused on issues unrelated to representation in the above-identified application, with only some discussion of representation. Whitehead's responsibility for prosecuting Tuschl I application, with good-faith consideration of Max-Planck's comments and advice, was discussed. In addition, the last paragraph on page 15 through the first full paragraph on page 16 of the decision is relevant to the matter of representation in that those paragraphs consider the contractual agreements related to representation. However, the decision did not give a clear interpretation of the agreement regarding representation of the above-identified application. Rather, the decision indicated that Max-Planck does not have "veto power" over Whitehead's decisions on prosecution, which is recognized as a different matter

than that before the USPTO in this application. Moreover, the decision was only on a preliminary injunction considering Max-Planck's likelihood of success on the merits without resolving the matters of representation. A clear determination regarding representation of the parties cannot be found in the decision.

Furthermore, the Office is not persuaded by the contention that permitting Max-Planck to chose its own counsel under the circumstances amounts to granting Max-Planck "veto power" over the application. This contention presumes that Max-Planck will not cooperate in the prosecution of the application and force its abandonment, which is speculation. Also, in the event that such a scenario should unfold, the application may be revived under 37 CFR 1.137 after a clear determination regarding representation of the parties is given by an appropriate authority and power of attorney in the application is changed accordingly. While such abandonment may delay prosecution, it does not have to prevent its completion. For the same reason, the alternative request to stay the decision on Power of Attorney is dismissed. The parties will not be permitted to exclude Max-Planck from prosecution until the issues of representation are clearly resolved by an appropriate authority.

As discussed in the decision mailed September 3, 2009 by the USPTO, the revocation and appointment of new counsel applies only to Max-Planck and those to whom it's right, title and interest are assigned. The practitioners of Wolf Greenfield & Sacks, P.C may continue to represent the other co-assignees.

In order to assure that all interests are properly and effectively represented, further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent – must be signed by both: (1) a registered practitioner representing Max-Planck; and (2) a registered practitioner representing the interests of the other co-assignees. Any counsel when signing subsequent papers must indicate whom he or she represents.

The Technology Center is again advised that communications filed on or after September 3, 2009 not signed in accordance with the earlier petition decision must also be regarded as informal, and as such, to take the action it deems appropriate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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OFFICE OF PETITIONS

In re Application of :
Molnar et al. :
Application No. 09/821,833 :
Filed: March 30, 2001 :
Attorney Docket No. 050321-1830 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed May 12, 2006, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On December 23, 2004, the Office mailed a nonfinal Office Action, which set a three-month shortened statutory period for reply. In the absence of a timely filed response, the application was held abandoned on March 24, 2005. A Notice of Abandonment was mailed on April 19, 2006.

In the present petition, the practitioner requested that the Office withdraw the holding of abandonment due to non-receipt of the nonfinal Office Action.

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the nonfinal Office Action, and in the absence of any irregularity in the mailing, there is a strong presumption that the nonfinal Office Action was properly mailed to the address of record. This presumption may be overcome by a showing that the nonfinal Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See MPEP 711.03(c)(I)(A). For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all replies docketed for a date three months from the mail date of the

non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (*e.g.* if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner for applicants submitted copies of docket records where the nonfinal Office Action would have been entered had it been received and docketed. The practitioner attested to the fact that a search of the file jacket and docket records indicated that the nonfinal Office Action was not received. Accordingly, applicants presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. No petition fee is required.

Technology Center Art Unit 2193 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for mailing of a new nonfinal Office Action. The three (3) month shortened statutory time period for responding to the nonfinal Office Action will be set to run from the mailing date of the new nonfinal Office Action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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Paper No. 6

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DEC 26 2001

OFFICE OF PETITIONS

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

In re Application of
Horner-Richardson et al.
Application No. 09/821,868
Filed: March 30, 2001
Attorney Docket No. TDTD 10465.1

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition, filed October 10, 2001, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 30, 2001, without an executed oath or declaration. Accordingly, on May 11, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply of July 11, 2001.

In reply, applicant filed a petition, petition fee and the surcharge for late filing of the declaration. To make timely the reply, a three month extension of time was also submitted. In support of the petition, applicants submitted the affidavit of Kevin D. Horner- Richardson, co-inventor, a copy of the assignment documents, correspondence to the non-signing inventor and a oath or declaration.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1).

As to item (1), Rule 47 applicant has failed to show that the non-signing inventor refused to sign the declaration after having been presented with the application papers. The certified letter mailed to the non-signing inventor Small only indicates the

declaration and assignment documents were presented to the non-signing inventor. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). The e-mail correspondence between declarant and non-signing inventor alone is not sufficient to establish "diligent effort".

Thus on renewed petition, applicant must establish the **entire** application package (including specification, claims and drawings) was presented to the non-signing inventor and he refused to sign.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 8

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JUL 01 2002

OFFICE OF PETITIONS

SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

In re Application of
Kevin Horner-Richardson, David Small and
Jesse Roberts
Application No. 09/821,868
Filed: March 30, 2001
Attorney Docket No. TDTD 10465.1

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition, filed February 25, 2002, under 37 C.F.R. §1.47(a).

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on March 30, 2001, without an executed oath or declaration. Accordingly, on May 11, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set a two-month period for reply of July 11, 2001.

In reply, applicant filed a petition, petition fee and the surcharge for late filing of the declaration. To make timely the reply, a three month extension of time was also submitted. In support of the petition, applicants submitted the affidavit of Kevin D. Horner- Richardson, co-inventor, a copy of the assignment documents, correspondence to the non-signing inventor and a oath or declaration. The petition was dismissed on December 26, 2001

In support of the renewed petition, rule 47 applicant submitted a supplemental declaration of facts from co-inventor Horner-Richardson, correspondence to co-inventor David Small and return receipt post card evidence.

A grantable petition under 37 C.F.R. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirement (2). The declaration does not comply with 37 CFR 1.63. Specifically, Jesse A. Roberts made changes to the declaration without initialing and dating the changes. Furthermore, the last known address of David Small provided in the renewed petition differs from the address provided in the declaration. A declaration with the current last known address must be provided.

Rule 47 applicant has sufficiently established that the non-signing inventor refuses to execute the application papers.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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OCT 2 5 2002

OFFICE OF PETITIONS

David A. Small
P.O. Box 128
Sharon, Vermont 05065

In re Application of
Kevin Horner-Richardson, David Small and
Jesse Roberts
Application No. 09/821,868
Filed: March 30, 2001
Title of Invention: PLASMA ARC TORCH AND METHOD FOR IMPROVED LIFE OF PLASMA ARC TORCH CONSUMABLE PARTS

LETTER

Dear Mr. Small:

You David Small are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina L. Donnellson

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Richard L. Bridge
SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 16

STEVEN F. WEINSTOCK
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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MAY 03 2004

OFFICE OF PETITIONS

In re Application of
Paul F. Coleman, et al..
Application No. 09/821,877
Filed: March 30, 2001
Attorney Docket No. 6794.US.O1

ON PETITION

This is a decision on the petition, filed April 19, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed September 29, 2003, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On April 19, 2004, an amendment and the present petition were filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9220. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1648 for consideration of the amendment filed April 19, 2004.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

In re Application of	:	
Paul F. Coleman et al	:	
Application No. 09/821,877	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 6794.US.01	:	

This is a decision on the petition, filed November 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 13, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1648 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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MAR -5 2004

Paper No. 9

In re Application of
Dennis A. Beam, III
Application No. 09/821,904
Filed: March 30, 2001
Attorney Docket No. 47923.255072

DECISION ON PETITION

This is a decision on the petition filed on February 3, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure as a result of petitioner's failure to file a reply to the Office letter dated March 19, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did not receive the Office letter in question. Petitioners have made a showing pursuant to the Notice published at 1156 0G 53, as discussed in MPEP § 711.03(c), in order to establish nonreceipt of the Office letter in question.

Petitioners' showing of nonreceipt of the Office letter mailed March 19, 2003 is accepted. Therefore, due to the nonreceipt of the that Office letter, the application is not considered to have been abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner to:

1. Change the correspondence address of record in accordance with the change of correspondence address that was filed on January 21, 2003, a copy of which is attached to the petition; and to thereafter

2. Remail paper No. 7 to the correct correspondence address as reproduced below.

The application will be then be forwarded to the Technology Center 3700 Central Files pending a reply to the remailed Office letter. The period for filing a reply to the remailed Office letter will run THREE MONTHS from the date of remailing, and may be extended pursuant to 37 CFR 1.136(a). In no case can the period for filing a reply be extended to run more than a total of six months from the date of remailing. See 35 USC § 133.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

J. Michael Boggs
Kilpatrick Stockton LLP
1001 West Fourth Street
Winston-Salem, NC 27101-2400

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ALEXANDRIA, VA 22313-1450
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Paper No. 4

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AUG 1 1 2003

OFFICE OF PETITIONS

William W. Kidd
BLAKELY, SOKOLOFF,
TAYLOR & ZAFMAN LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

In re Application of
Crafts et al.
Application No. 09/821,935
Filed: March 30, 2001
Attorney Docket No.
42390P10315

DECISION ON PETITION

This is a decision on the petition filed March 7, 2001, under 37 CFR 1.182, to accept replacement drawings, Figures 1A through 5, for publication in the above-identified application. The delay in treating this petition is regretted.

The petition is **granted**.

The drawings, Figures 1A through 5, have been entered into the application as replacement drawings.

The file is being forwarded to Technology Center Art Unit 2877 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 305-0014.

Derek L. Woods
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 21, 2006

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/822,035 Patent No.: 6,907,570

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

SPE

2173

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,052	03/30/2001	Sanjay Ramakrishna Pillay	1138-EP	8450

31127 7590 09/10/2008
JAMES J. MURPHY
THOMPSON AND KNIGHT LLP
1700 PACIFIC AVENUE
SUITE 3300
DALLAS, TX 75201

EXAMINER
CHU, GABRIEL L

ART UNIT	PAPER NUMBER
2114	

MAIL DATE	DELIVERY MODE
09/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080828

DATE : September 10, 2008

TO SPE OF : ART UNIT 2114

SUBJECT : Request for Certificate of Correction on Patent No.: 09/822052

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-910
Palm location 7590 - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ Approved — All changes apply.

☐ Approved in Part — Specify below which changes do not apply.

☐ Denied — State the reasons for denial below.

Comments:

SPE: /Scott T. Baderman/ Art Unit 2114

#5
12/18/02

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

DEC 10 2002

Paper No. 5

KENYON & KENYON
One Broadway
New York, NY 10004

In re Application of: Shahadatulla Khan, et al.	)	
Application No. 09/822,060	)	
Filed: March 30, 2001	)	**DECISION ON REQUEST FOR**
For: METHOD AND SYSTEM FOR	)	**WITHDRAWAL AS ATTORNEY**
MULTICAST TO UNICAST	)	
BRIDGING	)	

This is a decision on the Request To Withdraw from Representation filed November 18, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

For Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Dr. Paul Hildebrand
Eyeball Networks Inc.
500 - 100 Park Royal
West Vancouver, B.C.
Canada, V7T 1A2

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 2023

May 29, 2002

Matthew D. Rabdau
Sharp Laboratories of America, Inc.
5750 NW Pacific Rim Blvd.
Camas, Wa 98607

In re application of:
Bruce D. Ulrich
Serial No.: 09/822,093
Filed: March d30, 2001
For: X/Y ALIGNMENT VERNIEW AND METHOD
OF FABRICATING SAME

ON PETITION

This is a decision on the petition received November 15, 2002, to withdraw the holding of abandonment in the above-identified application.

The office had not abandoned the application. The application should have been completed and forward to the Technology Center 2877 within two months after the notice was mailed.

The petition is hereby Granted.

The petition fee of $130 will be charged to Deposit Account No. 19-1457 to complete the above application before release to the Technology Center 2877.

The office regrets any inconvenience this may have caused the client.

Telephone inquiries concerning this matter may be directed to Doshie E. Day at (703) 308-3640.

Doshie E. Day
Program Management Assistant
Office Initial Patent Examination

OIPE JC173 DEC 2 3 2004 PATENT & TRADEMARK OFFICE

3625

PTO/SB/83 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	09/822,160
Filing Date	March 30, 2001
First Named Inventor	Matthew Bondy
Art Unit	3625
Examiner Name	Matthew S. Gart
Attorney Docket Number	33477US1

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPROVED 12-5-05

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the attorneys/agents of record.
- ☑ the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- ☐ the attorneys/agents associated with Customer Number 000116

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Client has requested that we withdraw as Attorney for this case.

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☑ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☑ Firm or Individual Name	Intrinity Incorporated				
Address	1072 Sawmill Road				
City	Waterloo	State	Ontario	Zip	N2J 4G8
Country	Canada				
Telephone	519-744-3001	Fax			

Signature	John P. Murtaugh		
Name	John P. Murtaugh	Registration No.	34226
Date	December 17, 2004	Telephone No.	216-579-1700

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

U.S. Pat. App. Ser. No. 09/822,160

Charles B. Gordon, Reg. No. 16923
William C. McCoy, Reg. No. 16885
Richard H. Dickinson, Jr., Reg. No. 18622
Thomas P. Schiller, Reg. No. 20677
David B. Deioma, Reg. No. 22841
Joseph J. Corso, Reg. No. 25845
Howard G. Shimola, Reg. No. 26232

Jeffrey J. Sopko, Reg. No. 27676
John P. Murtaugh, Reg. No. 34226
James M. Moore, Reg. No. 32923
Michael W. Garvey, Reg. No. 35878
Aaron A. Fishman, Reg. No. 44682

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 7

SUN MICROSYSTEMS INC.
4120 NETWORK CIRCLE
MS USCA12-203
SANTA CLARA, CA 95054

COPY MAILED

FEB 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Naveen Kumar	:	
Application No. 09/822,164	:	DECISION GRANTING PETITION
Filed: March 30, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P5546 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 27, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 6, 2004 , which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 7, 2004. A Notice of Abandonment was mailed on November 15, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action of April 6, 2004 is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

The application file is being forwarded to Technology Center AU 2122 for appropriate action in due course on the reply received December 27, 2004.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Edward J. Grundler
Park Vaughan & Fleming LLP
508 Second Street, Suite 201
Davis, CA 95616-4692

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

SAWYER LAW GROUP
P.O. BOX 51418
PALO ALTO CA 94303

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AUG 0 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Frederick Thomas Sharp :
Application No. 09/822,174 :
Filed: March 29, 2001 :
Attorney Docket No. :
SVL920010014US2069P :

This is a decision on the petition filed August 3, 2004, requesting withdrawal of the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot.**

Unfortunately, the petition did not reach the appropriate official for decision within sufficient time to avert issuance of the application into a patent. Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue.** Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

The information disclosure statement (IDS) has been placed in the file of the above-identified application without further consideration. See 37 CFR 1.97(l).

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

After receipt of the file in the Office of Petitions, the patented file will be returned to the Files Repository.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 5

MAIL

SEP 1 1 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
P.O. BOX 506
MERRIFIELD VA 22116

In re Application of	:	
SAM SHIAW-SHIANG JIANG	:	
Application No. 09/822,238	:	DECISION ON REQUEST TO
Filed: April 2, 2001	:	WITHDRAW AS ATTORNEY
For: **WINDOW-BASED POLLING SCHEME FOR A WIRELESS COMMUNICATIONS PROTOCOL**	:	

This is a decision on the request to withdraw as attorney/agent of record filed on August 18, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

The practitioners of record include those of Customer Number 27,765. The undersigned, Mord Michael Lewis, is not of record, since he is not listed under Customer Number 27,765.

Accordingly, the request is **DISMISSED AS MOOT**.

Future communications from the Office will continue to be directed to the above-listed address unless a change of correspondence is specifically requested.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Wayne C. Jaeschke Jr.
MORRISON & FOERSTER LLP
1650 Tysons Boulevard
Suite 300
McLean, VA 22102

MAILED

MAR 1 2 2005

Technology Center 2100

In re Application of:
William A. Knaus
Application No. 09/822,261
Filed: April 02, 2001
For: BROADBAND COMPUTER-BASED NETWROKED SYSTEMS FOR CONTROL AND MANAGEMENT OF MEDICAL RECORDS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 28, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed January 28, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: James Remenick
POWELL GOLDSTEIN LLP
901 New York Avenue, NW
Third Floor
Washington, DC 2001-4413

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

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MAY 30 2006
OFFICE OF PETITIONS

In re Application of
Georg Muenzel :
Application No. 09/822,300 : ON PETITION
Filed: March 23, 2001 :
Attorney Docket No. 00 P 7515 US 01 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed May 19, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed November 15, 2005. A shortened statutory period of three months was set for replying Final Office Action. A three month extension of time and fee were filed with an amendment in response to the Final Office Action on May 5, 2006.

Comes now, however, petitioner with the instant petition to revive and a Request for Continued Examination (RCE), requesting that the amendment filed May 5, 2006 be

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

considered the submission required under 37 CFR 1.114.

Furthermore, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 2193 for processing of the RCE and submission.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: JUN 17 2004

rvk
Paper Number: 10

In re application of
Shuji Hitomi
Serial No. 09/822,311
Filed: April 02, 2001
For: ELECTRODE FOR FUEL CELL AND PROCESS FOR THE PREPARATION THEREOF :

DECISION ON PETITION

This is a response to the REQUEST FOR RECISION OF ISSUED NOTICE OF ABANDONMENT OR , IN THE ALTERNATIVE, PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed March 24, 2004. The request or petition asks that the abandonment, as set forth in the Notice of Abandonment of February 25, 2004, for failure to timely file a proper response to the Office letter dated July 23, 2003 be withdrawn. The petitioner asserts that applicant timely filed a proper response to the Office letter of July 23, 2003 on October 23, 2003.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the petitioner's evidence provided with the instant petition indicates that the the request has merit. The evidence presented is sufficient to establish that the applicant did reply to the Office letter of July 23, 2003 in a timely manner. The submitted evidence includes copies of the Amendment filed on October 23, 2003 and the USPTO Mail Room date stamped receipt dated October 23, 2003 acknowledging receipt of the Amendment.

Therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The application shall be forwarded to the Technical Support Staff

for entering of the response and then forwarded to the examiner for prompt consideration.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

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Paper No. 9

David E. Dougherty
DENNISON, SCHULTZ & DOUGHERTY
612 Crystal Square 4
1745 Jefferson Davis Highway
Arlington, VA 22202

AUG 8 2003

In re Application of YAMANAKA. Application No. 09/822,417 Filed: April 2, 2001 Attorney Docket No. 3192/2	: : : : :	DECISION ON PETITION

This is a decision on the petition filed March 11, 2003, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **DISMISSED.**

A non-final action was mailed on October 26, 2001, setting forth a three-month period of response. Applicant responded with an amendment filed January 25, 2002. The examiner considered the amendment to be non-compliant because it failed to meet requirements of 37 C.F.R. 1,121, mailed a Notice of Non-Compliant Amendment on February 7, 2002 and set forth a one-month period of response. Applicant filed a change of address on March 15, 2002.

Applicant asserts that he did not receive the Notice of Non-Compliant Amendment and that applicant worked at and occupied the premises of the former address until March 15, 2002. Further, applicant asserts that he had arranged to have any documents submitted from the Patent Office to a former address forwarded to the new address.

The review of the application file reveals that the Notice of Non-Compliant Amendment was sent to the correct address. The change of address, which was submitted after the mailing of the Notice of Non-Compliant Amendment, did not require remailing of the Notice of Non-Compliant Amendment.

Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the Notice of Non-Compliant Amendment was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action

must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Applicant has not provided the required statement attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Further, applicant has not provided a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

Since applicant has not made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is proper.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

Questions regarding this decision should be directed to Jose' G. Dees at (703) 308-4628.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD CA 94035-1000

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NOV 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Durand R. Begault	:	DECISION ON PETITION
Application No. 09/822,470	:	
Filed: 03/28/2001	:	
Attorney Docket No. ARC-14556-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed June 27, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on September 28, 2005. On April 5, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

This matter is being referred to Technology Center Art Unit 2615.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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PAUL DOUGLAS BYRD
17 LEISURE VALLEY DRIVE
CONWAY, AR 72032

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Paul Douglas Byrd :
Application No. 09/822,475 :
Filed: March 29, 2001 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(a), filed September 14, 2005, to revive the above-identified application. The petition was recently forwarded to this office for review.

The petition is dismissed.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

This application became abandoned for failure to timely file a proper reply to the final Office action mailed September 28, 2004. Accordingly, this application became abandoned on December 29, 2004. A Notice of Abandonment was mailed on June 1, 2005.

The required $250.00 petition fee (*see* 37 CFR 1.17(l)) has not been submitted. Petitioner has submitted $55.00. An additional $195.00 must be submitted. As such, the petition cannot be reviewed on the merits at this time and must be dismissed.

Further correspondence with respect to the instant petition under 37 CFR 1.137(a) should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paul Douglas Byrd
17 Leisure Valley Drive
Conway AR 72032

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APR 10 2007

OFFICE OF PETITIONS

In re Application of :
PAUL DOUGLAS BYRD :
Application No. 09/822,475 : DECISION ON PETITION
Filed: March 29, 2001 :
Attorney Docket No. n/a :

This is a decision on the RENEWED petition under the unavoidable provisions of 37 CFR 1.137(a), filed May 22, 2006, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 28, 2004, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 29, 2004. A Notice of Abandonment was mailed on June 1, 2005.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). **The instant petition lacks items (1) and (3).**

Regarding item (1) the required reply:
The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 2004. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37

CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

The petition is not accompanied by the required reply.

If petitioner lacks the requisite knowledge of patent prosecution to prepare an acceptable response to continue prosecution in this finally rejected application, he is strongly urged to obtained the services of a registered practitioner i.e., an attorney or agent registered to practice before the USPTO, to assist in preparation of the reply, and possibly, any renewed petition. USPTO employees are prohibited from assisting petitioner in the prosecution of this application, or aid in the selection of a registered practitioner. Petitioner may also obtain information from the PTO Internet web site at: www.uspto.gov, including a list of all registered practitioners, or by calling the Patent Assistance Center during the normal business hours for the eastern U.S. at 1-800-786-9199. Again, the PTO cannot prosecute his or any other application on behalf of an applicant.

Regarding item (3) a showing that the delay was unavoidable:
Petitioner states that incapacitation and rehabilitation due to a spinal cord stroke injury on October 25, 2004 caused the application to become abandoned for failure to timely file a response to the final Office action of September 28, 2004. Petitioner was an inpatient at the North Texas Veterans Hospital in Dallas on the date of abandonment and is currently wheel chair bound and dealing with the rigors of being a paraplegic.

Petitioner submitted as evidence a letter by Melvin Mejia, MD, SCI Staff Physician at Department of Veterans Affairs North Texas Health Care System dated December 14, 2004 that Mr. Byrd was hospitalized since October 25, 2004 for a new spinal cord injury and would be an inpatient for several more weeks along with another letter (undated) that Mr. Byrd required outpatient rehabilitation.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (e.g., correspond with the Office) during the period between September 28, 2004 and September 14, 2005. Such a showing must be supported by a statement from the petitioner's treating physician and the statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period. He will have to provide documents from licensed health care providers, demonstrating the nature and extent of petitioner's incapacitation; in such a manner that petitioner was, "unavoidably" prevented from taking any earlier action with respect to this application. Additionally, petitioner must state how he manages to conduct his daily personal and business affairs, including scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). There is no evidence of record that petitioner was incapacitated to the extent he could not conduct his regular business throughout the entire period when a response could have been filed. This is supported by the fact that the petitioner was aware of his patent application and did send communications to the USPTO in regard to his patent application on December 22, 2004 and on April 25, 2005. The communication on December 22, 2004 stated that he had been hospitalized due to a spinal cord injury on October 25, 2004 and will be unable to respond to the office action and requested a continuation of six month for his recovery from the injury. No extensions of time were purchased. On April 25, 2005, after the maximum extendable period for reply, petitioner further submitted a rewritten set of claims. After the Notice of Abandonment was mailed on June 1, 2005, petitioner replied with a petition for revival of an abandoned unavoidably under 37 CFR 1.137(a) on September 14, 2005.

The request on December 22, 2004 for a continuation of resolution for six months by petitioner due to his injury was not proper and not accepted because any such request to extend the time period for reply under 37 CFR 1.136(a) is limited by maximum period set by statute which is six months from the mail date of the office Action and **must** be accompanied by the required fee set forth in 37 CFR 1.17(a). No fee for the extension of time was filed in the application, and therefore any timely reply must be filed prior to December 28, 2004 or else the application becomes abandoned on December 29, 2004. The applicant's communications on December 22, 2004 and April 25, 2005 were not proper replies which would continue the application or avoid abandonment.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. *See* In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); *see also* In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Alternative venue

The petition under 37 CFR 1.137(a) to revive an abandoned application "unavoidably" cannot be granted. If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). **An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,500 (or $750 for Small Entity Status) petition fee. The attached PTO/SB/64 form may be used to file the petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b).**

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Amelia Au at (571) 272-7414.

Brian Hearn
Petitions Examiner
Office of Petitions

Attachment: PTO/SB/64 form

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Paper No. 12

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OCT 03 2003
OFFICE OF PETITIONS

In re Application of
Zinser, et al.
Application No. 09/822,503
Filed: April 2, 2001
Attorney Docket No. 18180.0176

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b) pursuant to 37 CFR 1.137(f), filed June 5, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an international application filed on April 2, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

Applicant filed a "Request to Rescind Previous Nonpublication Request" on April 3, 2002. Accordingly, as the rescission was not made until after the filing of the PCT application, applicant was required by 35 U.S.C. 122(b)(2)(B)(iii) to provide notice of the PCT filing not later than forty-five days after the date the PCT application was filed to avoid abandonment of the application.[1]

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", O.G. (July 1, 2003).

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded.

The application is being forwarded to Technology Center 2600, Group Art Unit 2655, for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAIL

JUL 0 1 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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Paper No. 16

TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

JUL 2004
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
ZINSER, JR. et al.

Application No. 09/822503
Filed: April 02, 2001
For: **COMPRESSED DOMAIN UNIVERSAL TRANSCODER**

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request for Withdrawal as agent(s)/attorney(s) of record received on March 18, 2004.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorney requesting the withdraw is withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Central Files to await examination in appropriate turn.

Kenneth A. Wieder

KENNETH WIEDER
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc: MARK J. ITRI, ESQ
MCDERMOTT WILL & EMERY
18191 VON KARMAN AVENUE
SUITE 400
IRVINE, CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CANTOR COLBURN LLP
55 GRIFFIN RD SOUTH
BLOOMFIELD CT 06002

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NOV 0 8 2004
OFFICE OF PETITIONS

In re Application of :
Link, et al. :
Application No. 09/822,504 :
Filed: April 2, 2001 : DECISION ON PETITION
Attorney Docket No. BLL-0211(01020):

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed November 3, 2004.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of a PCT international application filed on April 2, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The petition fee of $1,370 has been charged to Deposit Account No. 06-1130, as authorized.

The application is an image file wrapper (IFW), and as such, no forwarding of the file is required. A message will be sent to Group Art Unit 2683 to await for applicants' reply to the final Office action mailed November 3, 2004.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : ~~11/05/04~~ 09/26/05

TO SPE OF : ART UNIT **1771**

SUBJECT : Request for Certificate of Correction on Patent No.: ~~09/822623~~ 09/822623 6730396

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

A. Green

Angela Green
Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE — **Art Unit** 1771

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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AUG 29 2006
OFFICE OF PETITIONS

In re Application of :
Lakshmi Balaji et al. :
Application No. 09/822,627 : ON PETITION
Filed: March 30, 2001 :
Attorney Docket No. 10010891-1 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed April 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office Action mailed July 12, 2005. A response was filed September 12, 2005 but by Advisory Action of February 2, 2006, petitioner was advised that the response did not place the application in condition for allowance. This application therefore became abandoned on October 13, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 2626 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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APR - 2 2004

Paper No. 15

In re Application of
Brian A. Ruestow
Application No. 09/822,639
Filed: March 30, 2001
Attorney Docket No. 814.000427

DECISION ON PETITION

This is a decision on the petition filed by facsimile transmission on March 24, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 11, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because a proper reply to the Office letter in question was in fact filed on November 5, 2003. Petitioner supports this allegation by furnishing a copy of the reply and a copy of filing receipt for the reply showing that the reply was in fact received in the Office on November 5, 2003, a date within the period set by the Office letter in question for filing a reply. Based upon this evidence, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the amendment filed November 5, 2003.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Hodgson Russ LLP
Intellectural Property Law Group
One M & T Plaza
Suite 2000
Buffalo, NY 14203-2391

UNITED STATES PATENT AND TRADEMARK OFFICE

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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APR 15 2005

OFFICE OF PETITIONS

In re Application of
Fanning
Application No. 09/822,643
Filed: March 30, 2001
Attorney Docket No. 42P10572
For: CONTROLLING CACHE MEMORY IN EXTERNAL CHIPSET USING PROCESSOR

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2005 (certificate of mailing date January 25, 2005), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the October 22, 2004 Notice of Allowance and Fee(s) Due. Accordingly, this application became abandoned on January 23, 2005. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicant has submitted a reply in the form of the issue fee, publication fee, and the PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the October 22, 2004 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being returned to the Examiner for consideration of the drawing filed January 18, 2005 (certificate of mailing date January 12, 2005). Thereafter, the application will be forwarded to Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 5

MADSON & METCALF
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

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NOV 25 2002

OFFICE OF PETITIONS

In re Application of
Andre Litster et al
Application No. 09/822,644
Filed: March 30, 2001
Attorney Docket No. 3254.2.1

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(f)

This is a decision on the petition, filed October 13, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in a foreign country on February 12, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of March 6, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 2654 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE J. Siew

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 09/822,672

Paper No.: _____

DATE : 6/22/05

TO SPE OF : ART UNIT 1642 / 1643

SUBJECT : Request for Certificate of Correction on Patent No.: 6896885

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Lamonte M. Newsome

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

BEST AVAILABLE COPY

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE — 1643 Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Blue Bell, PA 19424

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In re Application of	:	
Thomas N. Turba, et. al.	:	
Application No. 09/822,686	:	DECISION ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. #RA 5362 (33012/309/101)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before April 28, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 28, 2008. Accordingly, the date of abandonment of this application is April 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with the MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

A courtesy copy of this decision is being mailed to the address given in the petition. Thereafter, all future correspondence will be mailed to the address of record.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to the Office of Data Management for processing into a patent.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Charles A. Johnson
Unisys Corporation
P.O. Box 64942
St. Paul, MN 55164-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

COPY MAILED

MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:
Koji Shibata	:
Application No. 09/822,835	: DECISION GRANTING PETITION
Filed: April 2, 2001	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q63810	:

This is a decision on the petition, filed May 24, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2685 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

OIPE JC133 SEP 04 2001 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Gordon G. Wong, et al.

Serial No.: 09/822,849

Filed: March 29, 2002

For: " *Polynucleotides Encoding Novel Secreted Proteins*"

Attorney Docket No.: GIN-6403

Group Art Unit: Not Yet Assigned

Examiner: Not Yet Assigned

Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

Certificate of First Class Mailing under 37 CFR §1.8(a))

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231 on the date set forth below.

August 29, 2001
Date of Signature and of Mail Deposit

By: _____
Debra J. Milasincic, Esq.
Reg. No. 46,931
Attorney for Applicants

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

Dear Sir:

Responsive to the Notice to File Missing Parts of Application dated May 8, 2001, Applicants' attorney submits herewith six (6) executed Declaration, Petition and Powers of Attorney for Patent Application for the above-identified patent application. A check in the amount of $ 1,776.00 is enclosed to cover the total amount owed by Applicants including $130.00 surcharge, $710.00 basic filing fee, $666.00 additional claim fee(s) for 37 total claims over 20 and $270.00 multiple dependant claim surcharge based on large entity status. A copy of the Notice to File Missing Parts of Non-Provisional Application is also enclosed. A separate request for an extension of time is being filed concurrently herewith.

The Commissioner is hereby authorized to charge payment of any fees under 37 C.F.R. 1.16 and 1.17 during the pendency of this application or credit any overpayment to Deposit Account No. 12-0080.

Please charge any underpayments or credit any overpayments associated with this communication to our Deposit Account No. 12-0080. *A duplicate of this letter is enclosed.*

Respectfully submitted,

Debra J. Milasincic, Esq.
Registration No. 46,931
Attorney for Applicants

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109
Tel. (617) 227-7400

Dated: August 29, 2001

OIPE JC133
SEP 04 2001
PATENT & TRADEMARK OFFICE

AP

Sector #

Box Seq

LAHIVE & COCKFIELD LLP

COUNSELLORS AT LAW
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ANTHONY A. LAURENTANO
KEVIN J. CANNING
JANE E. REMILLARD
DeANN FORAN SMITH
PETER C. LAURO
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DAVID R. BURNS
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JENNIFER K. ROSENFIELD
ALLAN TAMESHTIT, Ph.D.
CATHERINE E. McPHERSON
ERIC F. WAGNER, Ph.D.
SHAHID HASAN, Ph.D.
JACOB G. WEINTRAUB

* Admitted in NY only
** Passed the Patent Bar Examination

August 29, 2001

Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

Re: U.S. Patent Application Serial No. 09/822,849
Inventors: Gordon G. Wong, et al.
Filed: March 29, 2001
Title: *Polynucleotides Encoding Novel Secreted Proteins*
Attorney Docket No.: GIN-6403

Dear Sir:

I enclose herewith for filing in the above-identified application the following:

1. Response to Notice To File Missing Parts of Application *(in duplicate)*;
2. Request for Two-Month Extension of Time (*in duplicate)*;
3. Six (6) Executed Declaration, Petition and Power of Attorney (42 pages);
4. Transmittal Letter for Diskette of Sequence Listing;
5. Sequence Listing Diskette;
6. Paper Copy of Sequence Listing (numbered pages 1-311);
7. Copy of Notice to File Missing Parts of Non-provisional Application;
8. Check in the amount of $1,776.00 (consisting of $936.00 extra claims fee, $710.00 application filing fee and $130.00 surcharge/late filing fee);
9. Check in the amount of $390.00 (extension fee based on large entity status); and
10. A return postcard.

Please charge any deficiencies associated with this communication to our Deposit Account No. 12-0080. The undersigned requests any extensions of time necessary to respond. *A duplicate of this sheet is enclosed.*

Certificate of First Class Mailing (37 CFR 1.8(a))
I hereby certify that this correspondence is deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box Missing Parts, Washington, D.C. 20231 on:

August 29, 2001
Date

Debra J. Milasincic, Esq., Reg. No. 46,931

Respectfully submitted,

LAHIVE & COCKFIELD, LLP

Debra J. Milasincic, Esq.
Reg. No. 46,931

OIPE JC133 SEP 0 4 2001 PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/822,849	03/29/2001	Gordon G. Wong	GIN-6403

CONFIRMATION NO. 8494

FORMALITIES LETTER

OC000000006050870

000959
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 05/08/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **710** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $936.
  - **$666** for **37** total claims over 20.
  - **$270** for multiple dependent claim surcharge.
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 1776.**

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at**

09/05/2001 MAHMED1 00000034 09822849
01 FC:101 710.00 OP
02 FC:103 666.00 OP
03 FC:104 270.00 OP
04 FC:105 130.00 OP

patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLIED MATERIALS, INC.
P. O. BOX 450A
SANTA CLARA, CA 95052

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AUG 2 0 2007

OFFICE OF PETITIONS

In re Application of

Ledoux, et al.

Application No. 09/822,864

Filed: April 2, 2001

Attorney Docket No. 004600

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 19, 2007. This is also a decision on the petition for expedited treatment filed February 19, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

The petition for expedited treatment is **dismissed as moot**.

A review of the application file history as it was reconstructed reveals that a restriction requirement was mailed on February 26, 2003, to which applicant responded on May 6, 2003. Thereafter, another restriction/election requirement was mailed on May 22, 2003, allowing a thirty-day period for response. The restriction/election requirement also stipulated that:

> [t]his application is in condition for allowance except for the presence of claim 1-2 to an invention non-elected with traverse in Paper no. 7. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiners Amendment and pass the case to issue. Extensions of the time under 37 CFR 1.136(a) will not be permitted since the application will be passed to issue.

Applicant did not respond based on the aforementioned statements. Notwithstanding, the application was held abandoned for failure to respond to the restriction/election requirement.

The instant petition was filed on February 19, 2007. Petitioner argues that the holding of abandonment should be withdrawn. Although petitioner did not respond to the restriction/election requirement, petitioner argues that the application should have proceeded to issuance based on the statement made in the restriction/election requirement. Petitioner's argument is persuasive. The holding of abandonment is being withdrawn on the basis of the statements made in the restriction/election requirement and on the basis of the e-mail communication on July 9, 2007, between the undersigned and Examiner Nguyen

wherein Examiner Nguyen did not communicate any opposition to withdrawal of the holding of abandonment.

The petition to expedite is being dismissed as moot because the petition did not receive expedited treatment.

The application file is being forwarded Technology Center 2800, GAU 2881, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Cooley Godward LLP
One Freedom Square
Reston Town Center

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DEC 1 2 2005

OFFICE OF PETITIONS

In re Application of Tracy et al. Application No. 09/822868 Filed: April 2, 2001 Attorney Docket No. TELO-001/02/US	: : : DECISION GRANTING PTA : :

This is a decision on the REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT timely[1] filed on January 18, 2005 requesting that the United States Patent and Trademark Off. adjust the PTA at the time of the mailing of the notice of allowance from a determination of ZERO (0) days to a determination of two hundred and fifty-three (253) days.

Applicants' request for reconsideration is GRANTED. The Office will adjust the PTA calculation at the time of the mailing of the notice of allowance to reflect a determination of two hundred and fifty-three (253) days.

Applicants assert that the Office erred in the calculating of the PTA. Applicants assert that the Office entered two PALM dates incorrectly which skewed the PTA determination. Specifically, applicants assert that the Office entered the date of the RCE submission as December 17, 2003 rather that the actual date of August 15, 2003[2] and the date of response to the notice to file missing parts as August 15, 2001 rather than the entry date of September27, 2001. Accordingly, applicants assert that the two errors cost applicants PTA.

Applicants arguments are persuasive. Specifically, applicants' itemized postcard stamp serves as prima facie evidence of receipt in the Office. Accordingly, applicant submitted the response to the notice to file missing parts on August 15, 2001 and applicants submitted a RCE on August 15, 2003. Applicants submitted the response to file the missing parts within three months and

---

[1]Issue fee paid on January 8, 2005.

[2]Applicant submitted a postcard stamp receipt as proof of date of submission to the Office.

accordingly the assessment of the forty-three (43) day applicant delay is in error. Moreover, the submission of the RCE on August 15, 2003 should have entitled applicant to a USPTO delay of three hundred and eight (308) days pursuant to 37 CFR 1.702(a)(2).[3] Accordingly, applicants are entitled to a PTA determination at the time of the mailing of the notice of allowance of two hundred and fifty three days ((3+81+308) - 139 = 253.)

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Patent Publication for issuance of the patent. Any Office delays in issuance of the patent more than four months past the payment of the issue fee and more than three years after the filing date will be provided for in the issuance notification letter mailed prior to the issuance of the patent.

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, at (571) 272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: adjusted PAIR calculation

[3]Delay began on December 16, 2003, the day after the four month deadline and ended on October 18, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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POTOMAC PATENT GROUP, PLLC
P.O. BOX 270
FREDERICKSBURG, VA 22404

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OFFICE OF PETITIONS

In re Application of	:	
Jerrald W. Jones, et. al.	:	
Application No. 09/822,884	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 0220-028	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 3, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely submit the issue fee.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application file is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA PA 19103

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JAN 23 2004
OFFICE OF PETITIONS

In re Application of	:	
Sanghvi et al.	:	
Application No. 09/822,903	:	ON PETITION
Filed: 30 March, 2001	:	
Atty Docket No. ISIS-4734	:	

This is a decision on the petition filed on 4 December, 2003, which is treated as a petition under 37 CFR 1.183 to waive 3.81 and correct the assignment data on the issued styled "Petition to the Commissioner to Issue Patent with Correct Assignment Data."

The petition is **GRANTED**.

Petitioner requests correction of the assignee data on PTOL-85(b). 37 CFR 3.81(a) provides that, at the time the issue fee is paid, the name of the assignee must be supplied if the patent is to issue to that assignee. The Issue Fee was paid on 7 November, 2003. The present petition, filed on 4 December, 2003, however, did not reach the petition deciding official until after the issuance of the patent on 13 January, 2004. Thus, the petition is treated as a petition to correct the assignee on the front page of the above-identified patent.

Petitioner may request a Certificate of Correction under 37 CFR 1.322 reflecting the correction of the assignee data. Any request for a Certificate of Correction must be accompanied by the $100.00 fee for a Certificate of Correction.

The file is being returned to Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Kirton & McConkie
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Ronald B. Wells	:	DECISION
Application No.09/822,917	:	ON PETITION
Filed: March 30, 2001	:	37 CFR 1.137(b)
Attorney Docket No.13148.8	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2005, to revive the above-identified application. The instant application became abandoned for failure to reply to the office action of July 16, 2004. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 17, 2004.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3).

Petitioner has met the requirements for filing a grantable petition under 37 CFR 1.137(b) including (1) the reply (response); (2) the petition fee of $750.00 (for a small entity); and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed July 16, 2004 is accepted as having been unintentionally delayed.

This matter is being referred to Technology Center Art Unit 2157 for appropriate action on the concurrently filed response.

Any questions concerning this matter may be directed to Angela Ortiz at (571) 272-6051, or in her absence, the undersigned at (571) 272-3217.

Karen Creasy

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

ANTHONY C. MURABITO
WAGNER MURABITO & HAO
TWO NORTH MARKET STREET, 3RD FLOOR
SAN JOSE, CA 95113

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APR 0 8 2004

OFFICE OF PETITIONS

NOTICE

In re Application of :
H. Peter Anvin et al :
Application No. 09/822,933 :
Filed: March 30, 2001 :
Attorney Docket No. TRANS52

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2114.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 8

PETER LUDWIG
DARBY & DARBY
805 THIRD AVE.
NEW YORK NY 10022-7513

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DEC 04 2003

OFFICE OF PETITIONS

In re Application of	:
Mushkin et al.	:
Application No. 09/822,939	: DECISION GRANTING PETITION
Filed: 30 March, 2001	:
Attorney Docket No. 2681/0J060US0	:

This is a decision on the petition, filed on 19 November, 2003, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 27 March, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. It is noted that petitioners filed a Request to Rescind the Nonpublication Request on 15 April, 2002.

This decision is being forwarded to Technology Center 2100 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHRISTOPHER P. HARRIS
TAROLLI SUNDEIM COVELL & TUMMINO L.L.P.
526 SUPERIOR AVENUE, SUITE 1111
CLEVELAND, OH 44114-1400

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AUG 30 2005

OFFICE OF PETITIONS

In re Application of :
Kenneth W. Aull :
Application No. 09/822,958 :
Filed: March 30, 2001 :
Attorney Docket No. 15-0226

ON PETITION

This is a decision on the petition, filed August 29, 2005, which is being treated as a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2134 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 6

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

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JAN 3 0 2002

OFFICE OF PETITIONS

In re Application of	:	
Bunger, Reiling, Comb, Bank,	:	
McCaffrey, Reiling, and Velten	:	DECISION REFUSING STATUS
Application No. 09/822,961	:	UNDER 37 CFR 1.47(a)
Filed: 30 March, 2001	:	
Attorney Docket No. SFTC-01004US0	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 3 January, 2002.[1]

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified issue application was filed on 30 March, 2001), without an oath or declaration. Accordingly, on 8 May, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an

[1]A duplicate copy of the petition and associated papers was received on 8 January, 2002. As applicant was charged the petition fee, surcharge, and extension of time fee twice, the duplicate payments will be refunded to counsel's deposit account, No. 50-1826.

executed oath or declaration and a surcharge for its late filing. In response, on 3 January, 2002 (certificate of mailing date 8 November, 2001), petitioners filed the present petition, accompanied by the petition fee, a request and payment for a four (4) month extension of the time for reply to the aforementioned Notice, the required surcharge, and a declaration naming Mark Bunger, Michael Reiling, Michael Comb, Edward Bank, Michael McCaffrey, Carolee A. Reiling, and Juan Carlos Velten as joint inventors and signed by all inventors except McCaffrey on behalf of themselves and on behalf of joint inventor McCaffrey.

Petitioners state that a letter was mailed to joint inventor McCaffrey at his last known address, asking him to sign the declaration for the present application for patent, but no response was received. Petitioners state that further attempts to locate McCaffrey by telephone and E-mail searches were unsuccessfully.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (2). In regards to item (1), petitioners have not shown that a copy of the application papers (specification, including claims, drawings, if any, and the declaration) were sent or given to the nonsigning inventor for review. Although petitioners state that attempts to locate McCaffrey by telephone and E-mail were unsuccessful, the letter sent to him was not returned. A review of the record indicates no irregularity in the mailing of the letter to McCaffrey, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. Therefore, petitioners must show that a copy of the application as filed was sent to McCaffrey.

Petitioners may show proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent or given to the non-signing inventor for review[2] by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal can be alleged, petitioners must show that a copy of the application as filed was sent or given to the non-signing inventor. If there is a written refusal, petitioners should supply a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

In regards to item (2), the declaration filed with the present petition is defective in that it does not state that the person(s) making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person(s) to be material to patentability as defined in 37 CFR 1.56. Rather, the declaration incorrectly acknowledges a duty to disclose all information material to examination of the application. A new oath or declaration in compliance with 37 CFR 1.63 and 1.67 is required with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

---

[2] See MPEP 409.03(d).

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov
DW 08-02

Paper No. 10

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 MARKET STREET, SUITE 540
SAN FRANCISCO, CA 94105

COPY MAILED

AUG 0 9 2002

OFFICE OF PETITIONS

In re Application of	:
Bunger, Reiling, Comb, Bank,	: DECISION NOTING JOINDER OF
McCaffrey, Reiling, and Velten	: INVENTOR AND PETITION UNDER
Application No. 09/822,961	: 37 CFR 1.47(a) MOOT
Filed: 30 March, 2001	:
Attorney Docket No. SFTC-01004US0	:

Papers filed on 31 July, 2002, in response to the Decision Refusing Status Under 37 CFR 1.47(a) mailed on 31 January, 2002, included a Declaration signed by the previously non-signing inventor, Michael McCaffrey, in compliance with 37 CFR 1.63, as well as a four (4) month extension of time.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/28/10

Paper No.: ____

TO SPE OF : ART UNIT 2626

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/822976 Patent No.: 7092871 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes to cols. 2, 9, and 12 are OK. Mere grammatical changes. Changes to col. 35 changes the scope of the claim (4) and should NOT be entered

/James S. Wozniak/ 7/22/2010

United States Patent and Trademark Office

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 12

SPECKMAN LAW GROUP
SUITE 100
1501 WESTERN AVENUE
SEATTLE WA 98101

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APR 2 9 2002

OFFICE OF PETITIONS

In re Application of	:
Lorna Strachan et al	:
Application No. 09/823,038	: DECISION ON PETITION
Filed: March 28, 2001	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 11000.1037c3	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 8, 2002, to accept an unintentionally delayed claim under 35 USC § 120 or 121 or 365(c) for the benefit of one or more prior filed copending nonprovisional applications.

The petition is **granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the surcharge set forth in 37 CFR 1.17(t);

(2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) and the date the claim was filed was unintentional; and

(3) the specification must contain or be amended to contain a reference to each prior filed copending nonprovisional application or be included in an application data sheet (ADS) (37 CFR 1.76). The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on March 28, 2001. This application was filed within twelve months of provisional Application No. 60/221,216, filed July 25, 2000, for which a claim for priority was made in the declaration at the time of filing of the subject application, although not in the manner specified by 37 CFR 1.78(a)(5). It is noted that the declaration also makes reference to two nonprovisional applications, namely, Application No. 09/383,586, filed August 26, 1999 (U.S. Patent No. 6,424,419) and Application No. 09/276,268, filed March 25, 1999 (now abandoned). While the claim for the benefit of the provisional application was noted by the U.S. Patent and Trademark Office, the Office did not note the claim for priority to the two above-noted nonprovisional applications.[1] Petitioner now seeks a claim for the benefit of priority to the two aforementioned nonprovisional applications, for which a claim for the benefit of priority also was not made in the manner specified in 37 CFR 1.78(a)(2). A further review of the file history indicates that the applications were copending at the time of their filing. A reference to the two prior nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, which was filed concurrently with the instant petition under 37 CFR 1.78(a)(3).

As noted above, the reference to the two prior filed nonprovisional applications was not included in the manner specified in 37 CFR 1.78(a)(2) (i.e., in an ADS or in an amendment to the first sentence following the title of the specification) or filed within the period specified in 37 CFR 1.78(a)(2). Therefore, since the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(2), and having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(3) for acceptance of an unintentionally delayed claim for priority under 35 USC § 120, the petition to accept an unintentionally delayed claim for priority of

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[1] The current procedure where a claim for priority under either 37 CFR 1.78(a)(2) or 1.78(a)(5) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. However, on the other hand, if the PTO does not note the claim for priority to the prior filed applications in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR 1.78(a)(3) or 1.78(a)(6). In the instant case, the Office noted the claim for priority of provisional Application No. 60/221,216 in the oath or declaration, as shown by its inclusion on the filing receipt, but did not note the claim for priority for the two prior filed nonprovisional applications. Note 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

the two prior filed nonprovisional applications is granted as of the date of filing of the petition.

A corrected filing receipt which includes the priority claim to nonprovisional Application No. 09/385,586, filed August 26, 1999, and Application No. 09/276,268, filed March 25, 1999, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center AU for processing the amendment filed March 8, 2002 and for consideration by the examiner of the claim for the benefit of the prior filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of :

Robert Alan Eustace :

Application No. 09/823,081 : DECISION ON PETITION

Filed: March 29, 2001 :

Attorney Docket No. 9772-0275-999

This is a decision on the =petition under 37 CFR §1.137(b), October 28, 2005, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed December 15, 2004. The Notice set forth a three (3) month statutory period for reply. No further response was received within the allowed period. The application became abandoned on March 16, 2005. A Notice of Abandonment was mailed on April 25, 2005.

Deposit account 08-2025 will be charged $1400.00 for the issue fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The request for a change of the correspondence address filed October 28, 2005, is noted, but will not be entered. There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to the person signing the instant petition.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Patrick C. Keane
Buchanan Ingersoll, PC
PO Box 1404
Alexandria, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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Paper No. 5

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

MAILED

MAR 1 7 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Dennis Fernandez, et al.
Application No. 09/823,089
Filed: March 29, 2001
For: **INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed December 23, 2002.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. While a grantable petition is not limited to these examples, all of the examples act to directly counter terrorism. Clearly, the intent of the examples is that in order to be accorded special status, it must be clear how the disclosed invention of a particular application directly relates to the countering of terrorism.

The statements made in the petition do not show how the object surveillance system of the instant application directly contributes to the countering of terrorism. While petitioner states that in his opinion, the present application contributes to countering terrorism; there is no explanation of how the ***disclosed invention of this application in particular***, directly relates to the countering of terrorism. Rather, the petition sets forth a general description of a method of object surveillance that monitors an object, determines its location and stores the location in a database and a digital monitoring system that includes a plurality of detectors; without any particular description of how this disclosed subject matter would directly counter terrorism. The statements provided are not seen as sufficient to accord special status to this application inasmuch as it is unclear how the disclosed subject matter of the instant application operates to "counter terrorism".

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Krista Zele
Special Program Examiner
Technology Center 2600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 06/11/2010

Applicant	: Richard Bardini	: DECISION ON REQUEST FOR
Patent Number	: 7046670	: RECALCULATION of PATENT
Issue Date	: 05/16/2006	: TERM ADJUSTMENT IN VIEW
Application No	: 09/823,138	: OF WYETH
Filed	: 03/30/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 23

Timothy E. Tracy
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

MAY 18 2004

OFFICE OF PETITIONS

In re Application of	:	
Christopher T. GARRAD et al.	:	DECISION
Application No. 09/823,144	:	ON PETITION
Filed: March 30, 2001	:	37 CFR 1.137(b)
Attorney Docket No. PPC-780	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 12, 2004, to revive the above-identified application. The instant application became abandoned for failure to reply to the Final Office Action mailed July 15, 2003.

The petition is **GRANTED**.

The application file is being forwarded to the Technology Center 3700 for treatment of the concurrently - filed Request for Continued Examination.

Any questions concerning this matter may be directed to Ehud Gartenberg at (703) 305-4066 or, in his absence, to the undersigned at (703) 308-3865.

BethAnne Dayoan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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VIRTUAL LEGAL, P.C.
MICHAEL A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY NV 89706

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MAY 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Winston W. Hodge, et al.	:	
Application No. 09/823,179	:	DECISION ON PETITION
Filed: March 29, 2001	:	TO WITHDRAW
Attorney Docket No. N/A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Kerr, the sole attorney of record. A review of the file record indicates that practitioners associated with Customer No. 48008 do not have power of attorney in this patent application. Practitioners associated with Customer No. 48008 may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1,32(b). Applicant(s) is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Winston Hodge at the address indicated below.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)-272-3213.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: Winston Hodge
Coax Corporation
24290 Avenida de Marcia
Yorba Linda, CA 92887

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Paper No. 17

Cantor Colburn
55 Griffin Road South
Bloomfield, CT 06002

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FEB 0 4 2004

OFFICE OF PETITIONS

In re Application of	:	
Paul C. Reardon	:	
Application No. 09/823,183	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 01801-P0026A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 21, 2004, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113, to the final Office action mailed December 30, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 31, 2003.

The application file is being forwarded to Technology Center AU 1641 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD, CT 06905-5619

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of

Paul C. Reardon
Application No. 09/823,183
Filed: March 30, 2001
Attorney Docket No. 1801-P0026A

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed August 29, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that that attorneys and/or agent associated with Customer Number 24126 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Cantor Colburn, LLP**
55 Griffin Road South
Bloomfield, CT 06002

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 17

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

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JUL 1 3 2004
OFFICE OF PETITIONS

In re Application of	:	
John Greeven, et. al.	:	
Application No. 09/823,188	:	ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. 10004662-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight January 31, 2004.

In response, petitioner submitted with the instant petition $1,330 for the petition to revive fee, and an amendment.

The petition is **GRANTED**.

The application file is being forwarded to Technology Center Art Unit 3653 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAY 0 9 2006
OFFICE OF PETITIONS

VIRTUAL LEGAL, P.C.
MICHAEL A. KERR
3476 EXECUTIVE POINTE WAY, UNIT 16
CARSON CITY NV 89706

In re Application of	:	
Winston W. Hodge, et al.	:	
Application No. 09/823,197	:	DECISION ON PETITION
Filed: March 29, 2001	:	TO WITHDRAW
Attorney Docket No. N/A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 25, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Kerr, the sole attorney of record. A review of the file record indicates that practitioners associated with Customer No. 48008 do not have power of attorney in this patent application. Practitioners associated with Customer No. 48008 may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1,32(b). Applicant(s) is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and all future correspondence will be directed to the first named inventor Winston Hodge at the address indicated below.

There is an outstanding Office action mailed December 14, 2005 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Cheryl Gibson-Baylor
Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier

cc: Winston Hodge
Coax Corporation
24290 Avenida de Marcia
Yorba Linda, CA 92887

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#18

AVERILL & VARN
8244 PAINTER AVE
WHITTIER CA 90602

COPY MAILED

MAR 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Dressendorfer, et al.	:	
Application No. 09/823,204	:	ON PETITION
Filed: April 2, 2001	:	
Attorney Docket No. 135/128	:	

This is a decision on the petition filed on August 6, 2006, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." This is **not** a final agency decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely respond to the final Office action mailed on December 26, 2002. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned on , February 27, 2003. The Office mailed a Notice of Abandonment on July 15, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The instant petition does not contain a handwritten or S-signature pursuant to 37 CFR 1.4(d). This defect must be corrected upon request for reconsideration.

Furthermore, it is noted that the instant petition was filed more than three years after the mailing of the Notice of Abandonment, an extended period of time. Petitioner must explain why the petition to revive was not filed promptly, particularly in light of the fact that the Interview Summary mailed July 7, 2003 indicates that the applicants' representative confirmed that the application was abandoned.

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

#20

AVERILL & VARN
8244 PAINTER AVE
WHITTIER CA 90602

COPY MAILED

JUL 14 2008

In re Application of	:	
Dressendorfer, et al.	:	
Application No. 09/823,204	:	ON PETITION
Filed: April 2, 2001	:	
Attorney Docket No. 135/128	:	

This is a decision on the renewed petition filed on June 2, 2008, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely respond to the final Office action mailed on December 26, 2002. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the above-identified application became abandoned on , February 27, 2003. The Office mailed a Notice of Abandonment on July 15, 2003. Applicants filed a petition to revive under 37 CFR 1.137(b) on August 8, 2006. However, the petition was dismissed in a decision mailed on March 5, 2008. The decision noted that the petition lacked a signature. In addition, the decision requested an explanation from petitioner as to why the petition was not promptly filed.

With the instant petition, petitioner has met the requirements for a grantable petition under 37 CFR 1.137(b). The petition was signed. In addition, petitioner provided a satisfactory explanation with regards to the delay in filing the petition. The petition fee and required reply (an RCE) were previously submitted with the petition filed on August 8, 2006.

The file is being forwarded to Group Art Unit 3637 for consideration of the RCE filed August 8, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KEVIN L. RUSSELL
CHERNOFF, VILHAUER, MCCLUNG & STENZEL, LLP
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND OR 97204

COPY MAILED

NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
BORDEN, IV	:	DECISION
Application No. 09/823,219	:	ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. KLR/7146.0091	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 6, 2005, which set a shortened statutory period for reply of three (3) months. A three-month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 7, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137 (b) in that (1) the reply in the form of a Request for Continued Examination (RCE), an Amendment, and the requisite fee of $790; (2) the petition fee of $1500; and (3) the required statement of unintentional delay. Accordingly, the RCE, the Amendment and the filing fee are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Group Art Unit 2174.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : June 21, 2010

Patent No. :6834249
Inventor :Orchard
Patent Issued :Dec. 21, 2004
Title :METHOD AND APPARATUS FOR CONTROLLING A COMPUTING SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent.

Inspection of the application for the patent reveals that in connection with the alleged error pertaining to the inventorship; that the change is not warranted as a result of untimely filing. Accordingly, the correction to inventorship originally filed on April 22, 2002 failed to comply with rule 1.48 requiring "an oath or declaration by the actual inventor, or inventors". However, since this correction is now to the patent, and not the application, rule 1.48 no longer applies. The governing rule, 1.324(b)(2), requires a statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change. The requirements of 1.324 have also not been met..

In view of the foregoing applicants request in this matter is hereby denied. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Stolowitz Ford Cowger LLP
621 SW Morrison St. Suite 600
Portland, OR 97205

/arg

Attorney Docket No. P0715/7003

Inventor or Identifier: John E. Landers

Serial No: 09/823,257

Filed: March 30, 2001

For: *HIGH THROUGHPUT METHODS FOR HAPLOTYPING*

CHECK BOX, if applicable:

☐ DUPLICATE

OIPE JC18
JAN 11 2002
PATENT & TRADEMARK OFFICE

Fee Calculation Sheet

CLAIMS	FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE
	TOTAL CLAIMS (37 CFR 1.16(c))	64 - 20=	44 x	$18	= $ 792.00
	INDEPENDENT CLAIMS (37 CFR 1.16(b))	5 - 3=	2 x	$84	= $ 168.00
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d)) +			$280	= $
				BASIC FEE (37 CFR 1.16(a))	$ 740.00
			Total of above Calculations =		$ 1,700.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.9, 1.27, 1.28).				$ 850.00
	Four (4) Month Extension of Time Fee				$ 720.00
	Other Fees (Missing Parts Fee) (if any).				$ 65.00
	TOTAL =				$ 1,635.00

1. A check in the amount of $1,635.00 is enclosed.

General Authorization to Charge Deposit Account and General Request for Extension of Time

2. a. ☒ If the filing of any paper in this application necessitates the payment of a fee under 37 CFR §§ ☒1.16 or ☒ 1.17, and the fee due is in an amount different from any enclosed check or if no check is enclosed, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 23/2825.

b. ☐ The applicant hereby revokes any prior authorization to charge a fee due under 37 CFR §§ ☐1.16 ☐ 1.17 or ☐ 1.18.

3. If the filing of any paper in this application necessitates an extension of time under 37 CFR §1.136(a), the applicant hereby requests such extension of time. If the fee due is in an amount different from any enclosed check or if no check is enclosed, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 23/2825.

Helen C. Lockhart, Reg. No. 39,248
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2211
(617) 720-3500
Attorneys of Record

Docket No. P0715/7003(HCL)
Date: November 12, 2001
X11/12/01

524269.1

JAN 11 2002 JC18 PATENT & TRADEMARK OFFICE

JAN 11 2002 JC18 PATENT & TRADEMARK OFFICE

Sechor A

ATTORNEY'S DOCKET NO. P0715/7003(HCL)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	John Landers
Serial No.:	09/823,257
Filed:	March 30, 2001
For:	HIGH THROUGHPUT METHODS FOR HAPLOTYPING
Examiner:	Unknown
Art Unit:	1645

#3

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Box Missing Parts, Commissioner for Patents, Washington, D.C. 20231, on the 12th day of November, 2001.

Helen C. Lockhart

BOX MISSING PARTS
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Sir:

Transmitted herewith are the following document(s):

[X] Notice to File Missing Parts of Nonprovisional Application
[X] Declaration for Patent Application
[X] Statement Pursuant to 37 CFR 1.825(b) and 37 CFR 1.821(f)
[X] Paper Copy of Sequence Listing
[X} Sequence Listing on Computer Readable Disk
[X] Letter to Official Draftsperson
[X] Seven (7) Sheets of Formal Drawings (Figures 1-6)
[X] Four (4) Month Extension of Time
[X] Fee Calculation Sheet (X2)
[X] Check in the Amount of $1,635.00
[X] Certificate of Mailing
[X] Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check in the amount of $1,635.00 is enclosed. If the fee is insufficient, the balance may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

01/16/2002 NRDCHA1 00000071 09823257

05 FC:218 720.00 OP

Respectfully submitted,

Helen C. Lockhart, Reg. No. 39,248
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2211
(617) 720-3500

Docket No. P0715/7003
Date: November 12, 2001
X11/12/01

574655.1

OIPE
JAN 11 2002
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/823,257	03/30/2001	John E. Landers	P0715/7003

#4

CONFIRMATION NO. 7247

FORMALITIES LETTER

OC000000006065067

Helen C. Lockhart, Esq.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

Date Mailed: 05/10/2001

09823257 .011102

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

01/10/2002 NROCHA1 00000071 09823257
01 FC:101 370.00 OP
02 FC:102 84.00 OP
03 FC:103 396.00 OP
04 FC:105 65.00 OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $476.
  - **$396** for **44** total claims over 20.
  - **$80** for **2** independent claims over 3 .
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 896.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

- A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing." Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d).

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-10-08

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/823269 Patent No.: 6873098

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should CofC be Approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- Ix **Denied** — State the reasons for denial below.

Comments: applicant's requested changes are not approved since they raise issues which would require further consideration.

/Ashok Patel/ for SPE Minh-Toan Ton

SPE

2889
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : November 25, 2009

Patent No. : 6,873,098 B2
Patent Issued : March 29, 2005
Docket No. : KM0113.001CP1
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s)1.322 .

The alleged error(s) applicant's requested changes are not approved since they raise issues which would require further consideration. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 756-1542

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 9

PILLSBURY MADISON & SUTRO LLP
NINTH FLOOR, EAST TOWER
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005-3918

COPY MAILED

SEP 2 6 2001

OFFICE OF PETITIONS

In re Application of
Montgomery
Application No. 09/823,278
Filed: March 29, 2001
Attorney Docket No. 042503 02619

DECISION GRANTING PETITION

This is a decision on the petition filed July 16, 2001, requesting that the above-identified application be accorded a filing date of March 29, 2001

The application was deposited on March 29, 2001. However, on May 11, 2001, the Office of Initial Patent Examination mailed a "Notice" requiring an oath or declaration, the surcharge set forth in 37 CFR 1.16(e), the basic filing fee, additional claim fees, and substitute drawings in compliance with 37 CFR 1.84. The Notice also advised applicant that page 27 of the specification appeared to have been omitted.

In response, on July 16, 2001 , a copy of page 27, an Abstract, a preliminary amendment regarding the Abstract, the required fees, and the present petition were filed. The petition alleges that page 27 was filed on March 29, 2001. In support, the petition is accompanied by a copy applicant's postcard receipt which specifically acknowledges receipt in the PTO of 50 pages of specification, including title page and claims.

In view of the evidence presented, it is concluded that page 27 was received on March 29, 2001, and that page 27 was later misplaced in the Office.

The petition is granted.

Because the date stamped postcard receipt states, "The PTO did not receive the following listed item(s) Abstract- 1 page," it cannot prove receipt of the Abstract. The Abstract was not present on the filing date. Therefore it cannot be considered a part of the original disclosure of the application.

The application is being returned to the Office of Initial Patent Examination Division for further processing with a filing date of March 29, 2001, using the copy of the page filed on July 16, 2001.

Telephone inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 7

DARBY & DARBY
805 THIRD AVENUE 27TH FLR
NEW YORK NY 10022

COPY MAILED

DEC 2 0 2001

OFFICE OF PETITIONS

In re Application of :
Andrei Mikheev :
Application No. 09/823,284 :
Filed: March 30, 2001 :
Attorney Docket No. 3166/1G947 US1 :
Title: METHOD AND SYSTEM FOR :
GATHERING, ORGANIZING, AND :
DISPLAYING INFORMATION FROM DATA
SEARCHES

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 C.F.R. 1.47(b), filed September 28, 2001.

The petition under 37 C.F.R. 1.47(b) is **GRANTED**.

The above-identified application was filed on March 30, 2001. On May 18, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring, among other things, an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition (and fee) and paid the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a three-month extension of time.

A grantable petition under 37 C.F.R. 1.47(b) requires: (1) proof that all of the inventors cannot be reached or refuse to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 37 C.F.R. 1.63; (3) a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; (4) the petition fee; (4) a statement of the last known address of the non-signing inventor; and (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.

On petition, Attorney Chanah Brenenson has detailed the facts relied on to conclude that the inventor refused to sign. Accompanying the petition is the following supporting documentary evidence: (1) a cover letter from the inventor dated August 30, 2001, stating that he did not believe that the invention set forth in the above-identified application was "new" in view of the prior art; (2) a copy of the declaration signed by the inventor, but with the following provision crossed out and initialed by the inventor:

> that I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application...

Declaration of Andrei Mikheev, August 30, 2001. As such, the declaration was not effective.[1]

The declaration filed on September 28, 2001, and the petition have been reviewed and found to be in compliance with 37 CFR 1.47(b).

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Technology Center 2100 for continued examination.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] See 37 C.F.R. 1.63(a)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

MR ANDREI MIKHEEV
46 (2F2) ELM ROW
EDINBURGH EH7 4AH
SCOTLAND

COPY MAILED

DEC 2 0 2001

OFFICE OF PETITIONS
LETTER

In re Application of :
Andrei Mikheev :
Application No. 09/823,284 :
Filed: March 30, 2001 :
Title: METHOD AND SYSTEM FOR :
GATHERING, ORGANIZING, AND :
DISPLAYING INFORMATION FROM DATA
SEARCHES

Dear Mr. Mikheev:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (703) 305-0272. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Chanah Brenenson
Darby & Darby P.C.
805 Third Avenue
New York, New York 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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BEYER WEAVER & THOMAS, LLP
P.O. BOX 778
BERKELEY, CA 94704-0778

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Ted N. Magee, et. al.	:	
Application No. 09/823,290	:	ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. 271/281	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on September 26, 2005, to revive the above-identified application.

This application became abandoned for failure to timely reply to the Notice of Drawing Inconsistency with Specification mailed August 16, 2005.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment to the specification; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

As authorized, the petition fee of $1,500 has been charged to petitioner's deposit account.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. 10

AUG 0 9 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

In re Application of
Wang et al
Application No. 09/823,293
Filed: March 30, 2001

For: RAM BASED FIFO WITH POINTERS TO BUFFER OVERHEAD BYTHES OF SYNCHRONOUS PAYLOAD ENVELOPES IN SYNCHRONOUS OPTICAL NETWORKS

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on July 22, 2004.
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents listed in the Request to withdraw are withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

The file is being returned to TC 2600 Technical Support Staff to update the correspondence address and then will be forwarded to the TC's central files area to await action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

Cc: Valley Oak Law
Richard Butler
3641 Pleasant Knoll Drive
San Jose, CA 95148

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

JUN 14 2007

OFFICE OF PETITIONS

In re Application of
James Wang et al.
Application No. 09/823,293
Filed: March 30, 2001
Attorney Docket No. 4906.P073

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed May 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 2, 2006. The Notice of Abandonment was mailed November 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and an Amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

This application is being revived for consideration of the RCE and the concurrently filed amendment.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2616.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

#4

MAILED

JAN 16 2003

Office of the Director
Group 3600

Pennie and Edmonds
1155 Avenue Of The Americas
New York, NY 10036-2711

In re Application of
Andre Tallercio et al
SERIAL NO: 09/823,320
FILED: April 2, 2001
FOR: METHOD FOR LICENSING THREE-DIMENSIONAL AVATARS

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on December 16, 2002, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED.**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request required that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms.

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40© above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

09/823,320

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition (B) above.

As to the condition (B), Power of Attorney was given by the assignee, yet the reason for withdrawal is that applicants have filed to pay bills. It is therefore not clear who the client is. Also, proof of assignment in the form of a copy of assignment papers or a statement under 37CFR3.73(b) is needed.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703)-308-0866
Facsimile No.: (703) 605-0586

Rjb:1/9/03

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. 6

CARR & FERRELL LLP
2225 EAST BAYSHORE ROAD
SUITE 200
PALO ALTO CA 94303

MAIL

MAR 1 4 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:)
Robert A. Veschi)
Application No.: 09/823,350)
Filed: March 29, 2001)
For: METHOD AND SYSTEM FOR ROUTING CALLS FROM A STANDARD TELEPHONE DEVICE TO A VOICE OVER INTERNET PROTOCOL NETWORK

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the Request For Withdrawal As Attorney filed January 30, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.
All attorneys associated with customer number 22830 have been withdrawn.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: ZeroPlus.com, Inc.
Suite 400
12800 Middlebrook Road
Germantown, MD 20874

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 5

MAIL

NOV 21 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Eileen Lehmann
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, CA 94306

In re Application of :
Hon Wah Chin :
Application No. 09/823,410 :
Filed: March 30, 2001 :
For: SYSTEM AND METHOD FOR DETERMINING THE DATA RATE OF A DIGITAL DATA STREAM :

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on August 28, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED.**

Eileen A. Lehmann and any other attorney or agent of record is granted the request for withdraw of attorney/agent. All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc: Mr. David Fox
Cantor Colburn, LLP
55 Griffin Road South
Bloomfield, CT 06002

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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OFFICE OF PETITIONS

In re Application of	:	
Bryan G. Yammamoto	:	
Application No. 09/823,425	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. MPT-001	:	

This is a decision on the petition, filed August 27, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed October 12, 2006, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on December 13, 2006. *See* MPEP 1215.04. A Notice of Abandonment was mailed on August 2, 2007. In response, on August 27, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 2616.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEANETTE S. HARMS
2099 GATEWAY PLACE, SUITE 320
SAN JOSE, CA 95110

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 16, 2006

TO SPE OF : ART UNIT 2883

SUBJECT : Request for Certificate of Correction on Patent No.: 6,950,576/Appl.09/823,435

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Frank G Font — **SPE**

2883 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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KACVINSKY LLC
C/O INITELLEVATES
P O BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Steve Adams et al	:	
Application No. 09/823,459	:	DECISION GRANTING PETITION
Filed: March 20, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1020.P10679	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed June 8, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 9, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (request for continued examination, $790 fee therefor, and submission as required by 37 CFR 1.114), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of June 8, 2005 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2616 for processing the request for continued examination and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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KACVINSKY DAISAK PLLC
C/O CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 07/15/2010

Applicant	: Steve Adams	: DECISION ON REQUEST FOR
Patent Number	: 7664119	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/823,459	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SECOND SIGHT, LLC
12744 SAN FERNANDO ROAD
BUILDING #3
SYLMAR, CA 91342

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of	:	
Ok, et al.	:	
Application No. 09/823,464	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. S116-USA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 11, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 9, 2003. Accordingly, this application became abandoned on January 10, 2004. A Notice of Abandonment was mailed on August 12, 2004.

The file is being forwarded to Technology Center 3700 for review of the amendment filed August 11, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No. **12**

JOHN L. ROGITZ, ESQ.
ROGITZ & ASSOCIATES
SUITE 3120
750 "B" STREET
SAN DIEGO, CA 92101

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DEC 2 7 2002

OFFICE OF PETITIONS

In re Application of	:	
David Windsor Rillie	:	
Application No. 09/823,474	:	DECISION GRANTING PETITION
Filed: March 30, 2001	:	UNDER 37 CFR 1.137(f)
Attorney Docket No. 1128.014	:	

This is a decision on the petition, filed November 26, 2002, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

The instant nonprovisional application is the subject of an application filed in a foreign country on March 21, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f).

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of April 3, 2003 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-8680.

This application is being forwarded to Technology Center Art Unit 3637 for appropriate action in due course.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-17-09

TO SPE OF : ART UNIT 2151

SUBJECT : Request for Certificate of Correction on Patent No.: 7096261 B2 (09/823475)

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Should request be entered?

Thank You For Your Assistance

Eva James
Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Approved the inventor entity change; Not approve, claiming the priority of non-provisional application; Oath of Declaration filed back in 03/2001 omitted the non-provisional application; any correction filed after 2 months period set in the "Notice of Omitted Item(s)" are considered as untimely. See 37 CFR 1.53(a) or 37 CFR 1.182

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2151
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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APR 0 7 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

In re Application of:
Fernandez et al.
Application No. 09/823,506
Filed: March 28, 2001
For: INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special under MPEP § 708.02, XII: Special Status for Applications Relating to Biotechnology Filed by Applicants who are Small Entities, filed March 7, 2003.

A grantable petition to make an application special under MPEP § 708.02, XII, for an invention directed to biotechnology, must include the petition fee under 37 CFR § 1.17(h), and must state the following:
(A) that small entity status has been established or include a statement establishing small entity status;
(B) that the subject of the patent application is a major asset of the small entity; and
(C) that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement

Applicant's invention is generally directed to remote monitoring and surveillance using a digital network. While the Applicant superficially discloses that the invention can be used in medical monitoring (specification – second full paragraph on page 7), such use does not constitute a biotechnology invention, and is only an example application. Biotechnology requires the study of biology and the use of microorganisms. Applicant's invention broadly includes many other applications including a burglar alarm, smoke detector, thermostat, phone answering machine, and other non-biotechnology applications (specification – third full paragraph on page 7). Applicant may consider requesting special status under MPEP § 708.02, VIII.

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Kenneth A. Wieder

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

In re Application of:
Fernandez et al.
Application No. 09/823,506
Filed: March 28, 2001
For: INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the supplement to petition to make special under MPEP § 708.02, XII: Special Status for Applications Relating to Biotechnology Filed by Applicants who are Small Entities, filed June 5, 2003.

A grantable petition to make an application special under MPEP § 708.02, XII, for an invention directed to biotechnology, must include the petition fee under 37 CFR § 1.17(h), and must state the following:

(A) that small entity status has been established or include a statement establishing small entity status;
(B) that the subject of the patent application is a major asset of the small entity; and
(C) that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

The above statements have been made by the petitioner. The Petition is **GRANTED**.

The application will retain its special status throughout its entire course of prosecution in the Patent and Trademark Office, including appeal, if any to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the Applicant. The application file will be forwarded to the Examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No. 5

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Dennis Fernandez, et al.
Application No. 09/823,509
Filed: March 29, 2001
For: **INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed December 23, 2002.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. While a grantable petition is not limited to these examples, all of the examples act to directly counter terrorism. Clearly, the intent of the examples is that in order to be accorded special status, it must be clear how the disclosed invention of a particular application directly relates to the countering of terrorism.

The statements made in the petition do not show how the integrated digital monitoring system of the instant application directly contributes to the countering of terrorism. While petitioner states that in his opinion, the present application contributes to countering terrorism; there is no explanation of how the ***disclosed invention of this application in particular***, directly relates to the countering of terrorism. Rather, the petition sets forth a general description of the console processing unit and a general description of transmitting to a console processor in a network data structure; without any particular description of how this disclosed subject matter would directly counter terrorism. The statements provided are not seen as sufficient to accord special status to this application inasmuch as it is unclear how the disclosed subject matter of the instant application operates to "counter terrorism".

Accordingly, the petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Krista Zele
Special Program Examiner
Technology Center 2600

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MAILED Paper No. 9

JUN 06 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

In re Application of:
Fernandez et al.
Application No. 09/823,509
Filed: March 29, 2001
For: INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Supplement to Petition To Make Special under MPEP § 708.02, XI: Inventions for Countering Terrorism, filed May 5, 2003, which is being treated as a request for reconsideration of the decision mailed March 17, 2003. The request for reconsideration does not require a fee.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP § 708.02, XI, for an invention which contributes to the countering of terrorism, must be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

In the first petition filed March 3, 2003, the Petitioner states that the invention contributes to countering terrorism because the invention transmits object locations to a console processor, which is coupled to a detector and mobile sensor, and where the console has a data structure for representing a monitored object. In the supplemental petition, the Petitioner states that the invention "directly counters terrorism as it relates to remote surveillance and communications" by determining the exact location of objects using cameras and satellite receivers for the surveillance of suspected terrorist activity.

Petitioner's arguments have been fully considered but are not deemed persuasive. MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism, such as systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. While a grantable petition is not limited to these examples, all of the examples provided clearly act to directly counter terrorism. The intent of the examples is that any such disclosed invention must clearly act to counter terrorism.

The disclosure and claims of the instant application have been considered and there is no clear nexus between the disclosed invention and applicant's assertions that remote surveillance and communications would in fact ***directly*** counter terrorism. The statements made in the

supplemental petition do not show how the technology of the instant application directly contributes to the countering of terrorism. The invention is generally directed to a remote or local monitoring of objects typically by use of cameras and satellite receivers. Additionally, disclosed uses of the invention are typically for other than countering terrorism as follows:

- Medical applications - second full paragraph on page 7, first full paragraph on page 19, and the last full paragraph on page 26.
- Home security applications – third full paragraph on page 7.
- Commercial/Business/Finance applications – first full paragraph on page 19, second and third full paragraphs on page 24, last full paragraph on page 25, the first and second full paragraphs on page 27.
- Search and rescue applications – first full paragraph on page 26.
- Some miscellaneous applications – first full paragraph on page 32.

A generic surveillance system does not constitute a specific invention for countering terrorism.

Accordingly, the supplemental petition is **DENIED**.

Petitioner is given TWO MONTHS from the date of this decision to request reconsideration and supplement the original petition as appropriate. Should petitioner decide to petition this decision, a separate petition under 37 CFR 1.181(a)(3) should be filed.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2600
Communications

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Paper No. 12

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

MAILED

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Fernandez et al.
Application No. 09/823,509
Filed: March 29, 2001
For: **INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Request for Reconsideration on Decision to Make Special, filed August 5, 2003, Supplement to Petition To Make Special, filed May 5, 2003, and the Petition to Make Special, filed March 3, 2003, under MPEP § 708.02, XI: Invention for Countering Terrorism.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP § 708.02, XI, for an invention which contributes to the countering of terrorism, must include the petition fee under 37 CFR § 1.17(i). The petition must also be accompanied by a statement explaining how the invention contributes to countering terrorism. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

1. Petitioner argues that the invention is related to the above examples of systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
2. Petitioner argues that the invention can be used with a nationwide sensor for detecting chemical, nuclear, and biological threats, and provides an article from the EE Times for disclosing the nationwide sensor.
3. Petitioner argues that the medical/biological sensors on page seven of the specification, and motion, smoke, door or window detectors are used in monitoring terrorism.

1. As to the first point, no such disclosure exists that is directly related to counter-terrorism or the examples given above.
2. As to the second point, the disclosure again does not teach how the invention is directly related to such a nationwide sensor for detecting chemical, nuclear, and biological terrorism.
3. As to point three, as argued in the previous decision, the disclosed sensors of the application have several uses other than for terrorism. There is no disclosure for clearly linking the invention to combating terrorism. For example, cameras or detectors in general, as broadly disclosed, have a myriad of uses other than terrorism.

Petitioner may alternatively consider requesting special status under MPEP § 708.02, VIII.

Accordingly, the petition is **DENIED**.

The application file will be returned to the Technology Center's central files storage area to await action in its regular turn.

Allen MacDonald

Allen R. MacDonald, Director
Technology Center 2600
Communications

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Paper No. 14

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

MAIL

DEC 18 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
FERNANDEZ et al. :
Application No. 09/823,509 : DECISION ON PETITION
Filed: March 29, 2001 : TO MAKE SPECIAL
For: INTEGRATED NETWORK FOR :
MONITORING REMOTE OBJECTS :

This is a decision on the petition filed September 16, 2003 under 37 CFR §1.102(d) and MPEP §708.02 section XII to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP § 708.02, section XII: Special Status for Applications Relating to Biotechnology, must:

(A) state that small entity status has been established or include a statement establishing small entity status;
(B) state that the subject of the patent application is a major asset of the small entity; and
(C) state that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

To be granted Special Status under MPEP section XII, the application must be related to the field of Biotechnology. Petitioner states within their petition "..the invention relates to a communications method between care-givers and patients and a telemedicine system that enables remote care.

Webster's New World Dictionary (3rd college edition) defines Biotechnology as:

> "bi|o·tech·nol·o|gy (bi′ō tek näl′ə jē) **n**. the use of the data and techniques of engineering and technology for the study and solution of problems concerning living organisms"

Several sections of the Manual of Patent Examination Procedure define Biotechnology as follows:

Subpart G - Biotechnology Invention Disclosures
DEPOSIT OF BIOLOGICAL MATERIAL
§ 1.801 Biological material.
For the purposes of these regulations pertaining to the deposit of biological material for

purposes of patents for inventions under 35 U.S.C. 101, the term biological material shall include material that is capable of self-replication either directly or indirectly. Representative examples include bacteria, fungi including yeast, algae, protozoa, eukaryotic cells, cell lines, hybridomas, plasmids, viruses, plant tissue cells, lichens and seeds. Viruses, vectors, cell organelles and other non-living material existing in and reproducible from a living cell may be deposited by deposit of the host cell capable of reproducing the non-living material.
[Added, 54 FR 34880, Aug. 22, 1989, effective Jan. 1, 1990]

(A) the field of biotechnology as defined by the following units of the International Patent Classification:

C 12 M Apparatus for enzymology or microbiology	G 01 N 33/50 (including subdivisions) Chemical analysis of biological material, e.g. blood, urine; testing involving biospecific ligand binding methods; immunological testing
C 12 N Micro-organisms or enzymes; compositions thereof	A 61 K 39 Medicinal preparations containing antigens or antibodies
C 12 P Fermentation or enzyme-using processes to synthesise a desired chemical compound or composition or to separate optical isomers from a racemic mixture	A 61 K 48 Medicinal preparations containing genetic material which is inserted into cells of the living body to treat genetic diseases; Gene therapy
C 12 Q Measuring or testing processes involving enzymes or micro-organisms; compositions or test papers therefor; processes of preparing such compositions; condition-responsive control in microbiological or enzymological processes	A 01 H New plants or processes for obtaining them; plant reproduction by tissue culture techniques
C 07 K Peptides	

For information, U.S. classes covering the corresponding subject matter are listed below:

424 Drug, bio-affecting and body treating compositions	530 Chemistry: natural resins or derivatives; peptides or proteins; lignins or reaction products thereof
435 Chemistry: molecular biology and microbiology	536 Organic compounds–part of the class 532-570 series
436 Chemistry: analytical and immunological testing	800 Multicellular living organisms and unmodified parts thereof
514 Drug, bio-affecting and body treating compositions	930 Peptide or protein sequence

An invention that relates to a communications method [emphasis added] between care-givers and patients and a telemedicine system that enables remote care, is not considered to fall within the scope of applications relating to Biotechnology as set forth in the above citations.

Accordingly, the petition is **DENIED.**

As stated within the last decision on this matter (paper No. 12, mailed September 5, 2003), Petitioner may alternatively consider requesting special status under MPEP § 708.02, section VIII.

The application is returned to TC 2600 central files repository to await action in its regular turn.

Allen MacDonald

Allen R. MacDonald, Director
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Paper No. 16

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
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MAR 1 2 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
FERNANDEZ et al.	:	
Application No. 09/823,509	:	DECISION ON PETITION
Filed: March 29, 2001	:	TO MAKE SPECIAL
For: INTEGRATED NETWORK FOR MONITORING REMOTE OBJECTS	:	

This is a decision on the Supplement to Petition filed January 20, 2004 which is treated as Request for Reconsideration of the Petition to Make Special pursuant to 37 CFR §1.102(d) and specifically, MPEP §708.02 section XII to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP § 708.02, section XII: Special Status for Applications Relating to Biotechnology, must:

(A) state that small entity status has been established or include a statement establishing small entity status;

(B) state that the subject of the patent application is a major asset of the small entity; and

(C) state that the development of the technology will be significantly impaired if examination of the patent application is delayed, including an explanation of the basis for making the statement.

In addition, to be considered for Special Status under MPEP section XII, the application must be related to the field of Biotechnology. Petitioner stated within the last petition "..the invention relates to a communications method between care-givers and patients and a telemedicine system that enables remote care. Petitioner states within the current petition "A key purpose of the invention is to be implemented in 'non-imaging physical sensor manner,' such as monitoring 'mental activity, medication level, and other similarly monitorable information and signals...Broad biological and medical usages were enumerated for practical purposes, preventing a list and explanation of every possible biotechnological usage. Thus biotechnological objectives are principal to the purpose of the 'integrated network for monitoring remote objects."

Webster's New World Dictionary (3rd college edition) defines Biotechnology as:

> "bi|o·tech·nol·o|gy (bi′ō tek näl′ə jē) **n**. the use of the data and techniques of engineering and technology for the study and solution of problems concerning living organisms"

Several sections of the Manual of Patent Examination Procedure define Biotechnology as follows:

Subpart G - Biotechnology Invention Disclosures
DEPOSIT OF BIOLOGICAL MATERIAL
§ 1.801 Biological material.

For the purposes of these regulations pertaining to the deposit of biological material for purposes of patents for inventions under 35 U.S.C. 101, the term biological material shall include material that is capable of self-replication either directly or indirectly. Representative examples include bacteria, fungi including yeast, algae, protozoa, eukaryotic cells, cell lines, hybridomas, plasmids, viruses, plant tissue cells, lichens and seeds. Viruses, vectors, cell organelles and other non-living material existing in and reproducible from a living cell may be deposited by deposit of the host cell capable of reproducing the non-living material.
[Added, 54 FR 34880, Aug. 22, 1989, effective Jan. 1, 1990]

(A) the field of biotechnology as defined by the following units of the International Patent Classification:

C 12 M Apparatus for enzymology or microbiology	G 01 N 33/50 (including subdivisions) Chemical analysis of biological material, e.g. blood, urine; testing involving biospecific ligand binding methods; immunological testing
C 12 N Micro-organisms or enzymes; compositions thereof	A 61 K 39 Medicinal preparations containing antigens or antibodies
C 12 P Fermentation or enzyme-using processes to synthesise a desired chemical compound or composition or to separate optical isomers from a racemic mixture	A 61 K 48 Medicinal preparations containing genetic material which is inserted into cells of the living body to treat genetic diseases; Gene therapy
C 12 Q Measuring or testing processes involving enzymes or micro-organisms; compositions or test papers therefor; processes of preparing such compositions; condition-responsive control in microbiological or enzymological processes	A 01 H New plants or processes for obtaining them; plant reproduction by tissue culture techniques
C 07 K Peptides	

For information, U.S. classes covering the corresponding subject matter are listed below:

424 Drug, bio-affecting and body treating compositions	530 Chemistry: natural resins or derivatives; peptides or proteins; lignins or reaction products thereof
435 Chemistry: molecular biology and microbiology	536 Organic compounds–part of the class 532-570 series
436 Chemistry: analytical and immunological testing	800 Multicellular living organisms and unmodified parts thereof
514 Drug, bio-affecting and body treating compositions	930 Peptide or protein sequence

As stated in the last decision regarding this issue, inventions that relate to a communications method between care-givers and patients, a telemedicine system that enables remote care or an integrated network (i.e., communications) for monitoring remote objects, is not considered to fall within the scope of applications relating to and classified within the Biotechnology area.

An invention having a generic application in which biological or medical information, among numerous other potential applications in which sensor information may be remotely monitored, does not mean that the disclosed invention is related to Biotechnology as set forth in the classification areas indicated above.

Accordingly, the petition is **DENIED.**

As stated within the last two decision on this matter (paper No. 12, mailed September 5, 2003 and paper No. 14, mailed December 18, 2003), Petitioner may alternatively consider requesting special status under MPEP § 708.02, section VIII.

Otherwise, it is noted that the application is nearing its regular time for examination in the area in which the application has been classified. Therefore, the application will be forwarded to the Technology Center workgroup in charge of the application, for docketing and action in its regular turn.

Allen MacDonald

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Paper No. 6

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LOS ANGELES, CA 90025-1026

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NOV 1 5 2001

OFFICE OF PETITIONS

In re Application of
Estipona
Application No. 09/823,513
Filed: March 30, 2001
Attorney Docket No. 042390.P8786X

DECISION DISMISSING
PETITION

This is a decision on the petition under 37 CFR 1.47(b), filed on August 6, 2001, requesting that Intel Corporation ("Intel") be allowed to make the application on behalf of and as agent for the sole inventor who allegedly refuses to execute the application.

The petition is **DISMISSED.**

The sole inventor for the claimed invention in this application is Jim B. Estipona ("Estipona"), who is or was employed by Intel.[1] On May 17, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("5/17/01 Notice") stating that the declaration filed with the application on March 30, 2001 was not signed by the inventor. The instant petition was filed in response to the 5/17/01 Notice.

Under 37 CFR 1.47(b), if the sole inventor refuses to execute an application for patent, a person[2] to whom the inventor has assigned or **agreed in writing to assign the invention, or** who **otherwise shows sufficient proprietary interest** in the patent application,[3] may make application on behalf of and as agent for this inventor. Furthermore, the oath or declaration in such an application **must** be accompanied by a petition that includes, *inter alia*, **proof** of the pertinent facts; the **last known address** of the inventor;[4] and a **showing** that such action is necessary to **preserve the rights of the parties** or to **prevent irreparable damages**.[5]

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1 It is not clear whether Estipona is still employed by Intel. See petition page 2, paragraph 4.

2 A "person" can be a natural person or a legal entity such as a corporation; see MPEP section 409.03(b) (8th ed. Aug. 2001).

3 See also MPEP sections 409.03(b), (f) (8th ed. Aug. 2001).

4 This has been provided in the instant petition; see petition page 2.

5 37 CFR 1.47(b). See also MPEP section 409.03(g) (8th ed. Aug. 2001): "Irreparable damage may be established by a **showing (statement)** that a filing date is necessary to preserve the rights of the party or to prevent irreparable damage." (emphasis added) Such a statement is included in the instant petition; see petition page 2, paragraph 5.

The Office notes that:

-When an employment agreement is relied upon to show that the employee (nonsigning inventor) has agreed to assign the invention to the 37 CFR 1.47(b) applicant (employer, e.g., a corporation), it **must** be established by a **statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant**.[6] The petition encloses a copy of an employment agreement between Intel and Estipona, executed on March 23, 1998 ("Agreement"), apparently to show that Estipona has agreed, through this Agreement, to assign rights to this invention to Intel. This Agreement, being a general employment agreement, makes no reference to the claimed invention in this application. Nor does the petition indicate when the claimed invention was made by Estipona, and whether it was made during Estipona's employment by Intel. Therefore, the instant petition **fails to demonstrate**, as required by 37 CFR 1.47(b), **that Estipona has agreed to assign the invention in this application to Intel, or that Intel otherwise has the requisite proprietary interest in this application to justify filing the application on behalf of and as agent for Estipona**;

-A 37 CFR 1.47 applicant is required to **present an entire copy of the application papers**, including specification, claims, drawings, and oath or declaration, to the nonsigning inventor before a petition under 37 CFR 1.47 is granted.[7] Also, to allege refusal to sign the application by the inventor, the circumstances of the presentation of the application papers to, and the refusal to sign the papers by, the inventor must be specified in a **statement of facts** by the person **who** presented the application/concluded that the inventor refused to sign/**to whom** the refusal was made.[8] The instant petition is accompanied by a declaration by Charles A. Mirho ("Mirho Declaration"), one of the attorneys-of-record apparently appointed by Intel to prosecute this application. The Mirho Declaration states that "[o]n July 18, 2001, via an e-mail communication, Estipona refused to sign the Declaration and Power of Attorney"[9]; but **does not indicate whether an entire copy of the application papers**, including specification, claims, drawings, and oath or declaration, **had been presented to Estipona** for signature prior to the alleged e-mail communication.[10] Neither does the petition include any **proof**, as required by

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6 See MPEP section 409.03(f) (8th ed. Aug. 2001).

7 MPEP section 409.03(d) (8th ed. Aug. 2001) (Refusal to join).

8 *Id.*

9 Paragraph 5, Mirho Declaration.

10 See MPEP section 409.03(d) (8th ed. Aug. 2001) (A refusal by an inventor to sign an oath or declaration when the inventor has **not** been presented with the application papers **does not** itself suggest that the inventor refuses to join in the application **unless** it is clear that the inventor understands exactly what

37 CFR 1.47(b), **that Estipona refuses to sign** the oath or declaration in this application,[11] **and the reason** for such refusal, if any is given.[12]

The instant petition is thus dismissed.

To prevent abandonment of this application,[13] a request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mailing date of this decision. To be grantable, the renewed petition (no fee) must include:

-Appropriate **proof** that Estipona **made the claimed invention** in this application **while employed by Intel**, and has **agreed in writing to assign such invention to Intel**;[14] or that Intel otherwise has sufficient proprietary interest in this application to justify the filing of this application on behalf of and as agent for Estipona;[15]

-Appropriate statement(s) of facts regarding the presentation of **the entire application papers**, including the specification, claims, drawings, and oath or declaration, to Estipona;[16] and the circumstances of the alleged refusal by Estipona to sign the papers presented, or the **facts** relied upon to conclude that Estipona refuses to sign

---

he is being asked to sign and refuses to accept the application papers.) (emphasis added)

[11] In applications with 37 CFR 1.47 petitions, the USPTO presently does **not accept e-mail communications to non-signing inventors as proof of presentment of the applications to, or refusal to sign the applications by, the inventors.**

[12] If the nonsigning inventor gives a reason for refusing to sign the oath or declaration for the application, that reason should be stated in the petition; see MPEP section 409.03(d) (8th ed. Aug. 2001).

[13] See 37 CFR 1.53(f) (If an application which has been accorded a filing date . . . does not include an oath or declaration by the applicant pursuant to §1.63 . . . , applicant will be notified and given a period of time within which to . . . file an oath or declaration . . . and pay the surcharge required by §1.16(e) **to avoid abandonment**). The 5/17/01 Notice set forth a 2-month reply period for submitting a signed oath or declaration for this application, extendable for up to 5 months under 37 CFR 1.136(a) (see MPEP section 710.02(d) (8th ed. Aug. 2001): This 5-month period may be further extended under 37 CFR 1.136(b) when appropriate). The instant petition includes a request for a 1-month extension of time. Applicant thus has until 12/17/01 (with a 4-month extension of time under 37 CFR 1.136(a)) to submit a properly signed oath or declaration, through the grant of a renewed petition under 37 CFR 1.47(b) or otherwise.

[14] See note 6, *supra.*

[15] See note 3 and accompanying discussion, *supra.*

[16] E.g., proof that a *bona fide* attempt was made to present a copy of the application to Estipona, but he refused to accept delivery of the papers or expressly stated that the papers should not be sent; see MPEP section 409.03(d) (8th ed. Aug. 2001); see also note 7, *supra.* (Note: e-mail communications not acceptable; see note 11, *supra.*)

this application;[17] such statement(s) of facts being made and signed by **those who presented the application/concluded that Estipona refused to sign/to whom the refusal to sign was made**;

-An oath or declaration in compliance with 37 CFR 1.63, and **signed** by an officer of Intel[18] or by a person authorized by Intel to sign on its behalf.[19]

The Office acknowledges receipt of the $130 petition fee, the $130 surcharge for late filing of an oath or declaration, and the $110 for a 1-month extension of time for responding to the 5/17/01 Notice.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By fax: (703)308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[17] MPEP section 409.03(d) (8th ed. Aug. 2001).

[18] With title identified. MPEP section 409.03(b) (8th ed. Aug. 2001).

[19] Must submit proof for, or statement of, such authority. MPEP section 409.03(b) (8th ed. Aug. 2001).

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OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of	:
Le et al.	: DECISION DISMISSING PETITION
Application No. 09/823,583	: UNDER 37 CFR 3.81(b)
Filed: 30 March, 2001	:
Attorney Docket No.	:
50019.37US01/P04891	:

This is a decision on the petition, filed on 11 January, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioners state that the assignee data was inadvertently omitted from the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioners request leave to correct the assignee data.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

It is noted that Application No. 09/823,583 issued as U.S. Patent No. 6,975,678 on 13 December, 2005.

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[1] *See* Official Gazette of June 22, 2004

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to NATIONAL SEMICONDUCTOR CORPORATION has been recorded. Therefore, upon submission of the required certificate of correction, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that NATIONAL SEMICONDUCTOR CORPORATION was the assignee of record at the time of issuance of the instant application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above **the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction which sets forth NATIONAL SEMICONDUCTOR CORPORATION, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

The required processing and certificate of correction fees have been received.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3231.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 8

MICHAEL J. MALLIE
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SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

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NOV 04 2003

OFFICE OF PETITIONS

In re Application of	:	
Schwartz et al.	:	
Application No. 09/823,598	:	DECISION GRANTING PETITION
Filed: 30 March, 2001	:	
Attorney Docket No. 74451.P128	:	

This is a decision on the petition, filed on 9 October, 2003, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 28 March, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 7 May, 2002, and that the above-identified application was published on 24 April, 2003.

This decision is being forwarded to Technology Center 2600 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 703.308.6918.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Approved for use through 04/30/2009. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,523,568	2003-02-25	09823605	2001-03-30	090606.0137

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Ryan S. Loveless/	Date (YYYY-MM-DD)	2007-08-09
Name	Ryan S. Loveless	Registration Number	51970

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6523568
Issue Date: February 25,2003
Application No. 09823605
Filed: March 30,2001
Attorney Docket No. 090606.0137

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed August 9,2007 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is GRANTED.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 9,2007 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in an Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy

Telephone inquires related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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John P. Ward
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MAR 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Gregory Miller :
Application No. 09/823,611 : ON PETITION
Filed: March 30, 2001 :
Attorney Docket No. 42390-P10732 :
Title of Invention: Method and Apparatus for :
Use of Power Switch to Control Software

This is a decision on the petition under 37 CFR §1.137(b), filed March 3, 2006[1] to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.
The petition filed under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of February 6, 2004. The final Office Action set a three (3) month shortened statutory period for reply. An amendment and one month extension of time was filed on June 7, 2004. An Advisory Action was mailed on July 13, 2004 informing applicant the response filed did not place the application in condition for allowance. Accordingly, this application became abandoned on June 7, 2004. A Notice of Abandonment was mailed on March 17, 2005.

A Request for Continued Examination (RCE) and request for extension of time were

[1]Petitioner has provided a copy of the petition which was originally submitted on April 8, 2005 pursuant to USPTO Auto-Reply Facsimile Transmission .

received by the Office on July 2, 2004. This communication was matched to the serial number identified in the transmittal letter accompanying the communication, namely, serial No. 10/823,611. The communication did not timely reach the correct application (09/823,611) due to petitioner's error. As a result of this error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the transmittal accompanying the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The petition fee in the amount of $1500.00 will be refunded to deposit account no. 02-2666. Petitioner will be charged the two month extension of time required to make the RCE timely.

This application is being forwarded to the Technology Center 2100 for further processing of the RCE and amendment submitted on June 7, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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JJGJR.: 06-06

Paper No: __

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Knee, et al.	:	
Application No. 09/823,616	:	ON PETITION
Filed: 31 March, 2001	:	
Attorney Docket No. 42390.P9020	:	

This is a decision on a petition filed on 22 May, 2006, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely and properly to the Examiner's Answer mailed on 24 February, 2006, to file a Reply Brief with reply absent extension of time under 37 C.F.R. §1.136(b) sought on or before 24 April, 2006
- the instant application went abandoned by operation of law after midnight 24 April, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;
- Petitioner filed the instant petition on 22 May, 2006, with fee, and, *inter alia*, reply in the

form of a reply brief, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b).

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to Technology Center 2100 for release to the Board of Patent Appeals and Interferences in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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Paper No. 8

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OCT 2 4 2003

OFFICE OF PETITIONS

In re Application of
Edward L. Schwartz
Application No. 09/823,632
Filed: March 30, 2001
Attorney Docket No. 74451.P133

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 7, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 28, 2003. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (703) 305-9220.

This application is being forwarded to Technology Center Art Unit 2621 for examination in due course.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances M. Hicks
Lead Petitions Examiner

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ROCHE MOLECULAR SYSTEMS INC
PATENT LAW DEPARTMENT
1145 ATLANTIC AVENUE
ALAMEDA, CA 94501

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OFFICE OF PETITIONS

In re Application of :
Edward Soh Smith et al :
Application No. 09/823,649 :
Filed: March 30, 2001 :
Attorney Docket No. RPA1006 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 28, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed October 22, 2003, which set a shortened statutory period for reply of three (3) months. Three extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 23, 2003.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on June 28, 2004.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 1634 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

Kevin L. Bastian
Townsend & Townsend & Crew LLP
2 Embarcadero Center
San Francisco, CA 94111

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OFFICE OF PETITIONS

In re Application of	:	
Jan Van Ee	:	
Application No. 09/823,658	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. US018032	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 30, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed October 20, 2005, which set a period for reply of one (1) month or thirty days, whichever was longer. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on November 21, 2005. A Notice of Abandonment was mailed on September 19, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of October 20, 2005 is accepted as being unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application is being referred to Technology Center AU 2623 for appropriate action in the normal course of business on the reply received November 30, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Kevin Simmons
Philips Electronics North America Corp.
1109 McKay Drive MS41-SJ
San Jose, CA 95131

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OFFICE OF PETITIONS

In re Application of	:	
Jan VAN EE	:	
Application No. 09/823,658	:	DECISION ON PETITION
Filed: March 29, 2001	:	
Attorney Docket No. US018032	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 11, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 12, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2623 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. 21

Fellers, Snider, Blankenship, Bailey & Tippens, P. C.
Bank One Tower
100 North Broadway, Suite 1700
Oklahoma City, OK 73102-8820

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OCT 20 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kurt J. Korkowski, et al. :
Application No. 09/823,677 :
Filed: March 30, 2001 :
Attorney Docket No. STL9563 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2004, to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

The application file is being referred to Technology Center 2600 for processing the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 25 2004

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:
Manehide Kano et al	:
Serial No.: 09/823699	: PETITION DECISION
Filed: March 30, 2001	:
Attorney Docket No.: 50026/022002	:

This is a response to the petitions under 37 CFR 1.59(b), filed August 2, 2004 and August 22, 2003, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that documents submitted August 2, 2004, and July 31, 2003 as a Proprietary Information Disclosure Statements be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

This is an examined application in which a Notice of Appeal has been filed. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements. The listing of references cannot be returned.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at general Office facsimile number, 703-872-9306.

Jasemine C. Chambers
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 20 2007

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Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

In re Application of	:
Munehide Kano et al	:
Serial No.: 09/823,699	: PETITION DECISION
Filed: March 30, 2001	:
Attorney Docket No.: 50026/022002	:

This is a response to the petition under 37 CFR 1.59(b), filed October 31, 2007, to expunge information from the above identified application.

Petitioner requests that the Proprietary Information Disclosure Statement, filed November 6, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

The information provided has not been reviewed by the examiner and the petition cannot be granted at this time. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application petition may be made for return of Proprietary Information Disclosure Statements. It is noted also that the petition fails to make the required statements regarding retention of the proprietary material.

The petition is **DISMISSED**. Applicants may resubmit the petition subsequent to allowance or other action being mailed in the application which closes prosecution. No additional petition fee will be required at that time.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the above address, or by telephone at 571-272-0519 or by facsimile transmission at the Office facsimile number, 571-273-8300.

Christopher Low
Acting Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES CA 90013-1024

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MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Ito, et al.	:	
Application No. 09/823,704	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 39303.20243.00	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 23, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed March 27, 2006, which set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on June 28, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner submitted the required reply in the form of an RCE, paid the petition fee, and made a statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2161 for consideration of the RCE, filed March 23, 2007.

Telephone inquiries regarding this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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MAY 1 4 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Michael Follingstad et al
Application No. 09/828,706
Filed: April 6, 2001
Attorney Docket No. 2316.1260-US01

This is a decision on the petition, filed May 7, 2004, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 15, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (703) 305-8859.

The examiner of Technology Center AU 2832 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 8

Morrison & Foerster LLP
755 Page Mill Rd.
Palo Alto, CA 94304-1018

MAIL

SEP 04 2002

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of: Daryoush Paknad, et al.)
Application No. 09/823,719)
Filed: March 30, 2001) DECISION ON REQUEST FOR
For: BUSINESS NETWORK PLATFORM) WITHDRAWAL AS ATTORNEY
METHOD AND SYSTEM)

This is a decision on the Request To Withdraw from Representation filed July 16, 2002.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is GRANTED.

Because no request was made for a change in correspondence address, all future communications from the United States Patent and Trademark Office will continue to be directed to the above-listed address until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Office of any change in correspondence address to ensure receipt of all communications from the Office.

FOR

Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 8

Michael J. Mallie
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

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SEP 22 2003

OFFICE OF PETITIONS

In re Application of Schwartz et al. Application No. 09/823,733 Filed: March 30, 2001 Attorney Docket No. 74451.P126	DECISION GRANTING PETITION UNDER 37 CFR 1.137(f)

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))," filed June 23, 2003.

The petition is **GRANTED**.

The request for refund is **DENIED**.

Petitioner states that the instant nonprovisional application is the subject of a subsequently-filed foreign or international application filed March 28, 2002. The U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the foreign or international application[1].

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

---

[1] A Request to Rescind Previous Non-publication Request was filed April 18, 2002; however, it was not accompanied by a Notice of Foreign Filing.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. The application was published on April 10, 2003.

As to petitioner's request for a refund of the petition fee, 35 U.S.C. 41(a) (7) provides that a petition for the revival of an unintentionally abandoned application or for the unintentionally delayed payment of the issue fee must be accompanied by the petition fee set forth in 37 CFR 1.17(m), unless the petition is filed under 35 U.S.C. 133 or 151 (on the basis of unavoidable delay), in which case the fee is set forth in 37 CFR 1.17(l). Thus, unless the circumstances warrant the withdrawal of the holding of abandonment (i.e., it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application, and cannot be waived.

In addition, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

In view thereof, petitioner's request to refund the petition fee must be denied.

The application is being forwarded to Technology Center 2621 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 8

Blakely, Sokoloff, Taylor and Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025

COPY MAILED

JUL 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael Gormish, et al.	:	
Application No. 09/823,739	:	DECISION ON PETITION
Filed: March 30, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 074451.P132	:	

This is a decision on the petition filed June 23, 2003, under 37 CFR 1.137(f) which is being treated under the unintentional provisions of 37 CFR 1.137(b), to revive the instant nonprovisional application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. A review of the file record shows that a Request to Rescind was filed on May 7, 2002. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

Since it cannot be determined if the application is appropriately abandoned, a decision regarding petitioner's request for a refund of the petition fee cannot be rendered at this time.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202

By Fax: (703) 308-6916
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 11

Michael J. Mallie
Blakely, Sokoloff, Taylor and Zafman, LLP
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026

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OCT 3 0 2003

OFFICE OF PETITIONS

In re Application of	:	
Michael J. Gormish, et al.	:	
Application No. 09/823,739	:	DECISION GRANTING PETITION
Filed: March 30, 2001	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 74451.P132	:	

This is a decision on the renewed petition, filed October 8, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 28, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 4, 2004 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.

This application is being forwarded to Technology Center Art Unit 2631 for examination in due course.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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APR 12 2005
OFFICE OF PETITIONS

In re Patent No. 6,743,068	:	
Issued: 1 June, 2004	:	
Application No. 09/823,744	:	ON PETITION
Filed: 31 March, 2001	:	
Attorney Docket No. SON-2758	:	

This is a decision on the petition filed on 2 December, 2004, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquires concerning this matter may be directed to the undersigned at 571.272.3231. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at 703.305.8309.

The file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] See Official Gazette of 22 June, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAR 18 2004

STEPHEN B. MAEBIUS
FOLEY & LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007-5300

In re Application of	:
Hans J. Hansen et al	:
Serial No.: 09/823,746	: WITHDRAWAL OF ATTORNEY
Filed: April 3, 2001	:
Attorney Docket No.: 018733-1015	:

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.
(b) Mandatory withdrawal . A practitioner representing a client before the Office shall withdraw from employment if:
(1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
(2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
(3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
(4) The practitioner is discharged by the client.
(c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
(1) The petitioner's client:
(i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
(ii) Personally seeks to pursue an illegal course of conduct;
(iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
(iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
(v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
(vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
(2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
(3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
(4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
(5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mailed: FEB -2 2004

PJR

Paper No. 10

In re application of
E. Jennings Taylor et al.
Serial No. 09/823,751
Filed: April 3, 2001
For: Pulse Reverse Electrodeposition for Metallization and Planarization of Semiconductor Substrates

DECISION ON PETITION

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed April 21, 2003 for failure to timely respond to the office action dated July 1, 2002.

DECISION

The request is accepted as a petition under 37 C.F.R. 1.181 (no fee). A review of the petitioner's evidence provided with the instant petition indicates that the request does have merit. Submitted as evidence is a copy of the docket records for this application indicating no entry for the office action in question. Further, a copy of applicant's file jacket has been included which also indicates that no office action was received.

Therefore, the Notice of Abandonment dated February 19, 2003 is hereby withdrawn. Hence, the case is returned to pending status. The application shall be returned to the LIE for 1) verification of the correspondence address, 2) remailing the office action and 3) restarting the time period for response to the office action.

The Petition is **GRANTED**.

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Thompson Hine LLP
2000 Courthouse Plaza NE
10 West Second Street
Dayton, Ohio 45402-1758

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 16, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/823763 /7227973

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Check claim 91, should it be approved?

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

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Paper No. 7

MARTINE & PENILLA, LLP
710 LAKEWAY DRIVE
SUITE 170
SUNNYVALE, CA 94085

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OCT 0 7 2003

OFFICE OF PETITIONS

In re Application of
McMahon et al.
Application No. 09/823,787
Filed: March 30, 2001
Attorney Docket No. ROXIP204

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 3, 2003, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen month publication country on March 28, 2002. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 15, 2004 has previously been mailed on October 3, 2003.

This application is being forwarded to Technology Center Art Unit 2651 for examination in due course.

Any inquiries concerning this decision may be directed to Paralegal Liana Chase at (703) 306-0482.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 18

Law Offices of Jean-Marc Zimmerman
226 St. Paul Street
Westfield NJ 07090

COPY MAILED

JUL 2 1 2004

OFFICE OF PETITIONS

In re Application of
Lee
Application No. 09/823,793
Filed: March 20, 2001
Attorney Docket No. Lee 1-17

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 19, 2004, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**..

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on March 20, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/221,316, which was filed on July 28, 2000, for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior-filed provisional application was submitted during the pendency of the nonprovisional application for which the benefit is sought. *See* 35 U.S.C. §119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §119(e), the petition to accept an unintentionally delayed claim of benefit to prior-filed provisional Application No. 60/221,316 is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is

entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (703) 305-1820.

The application is being forwarded to Technology Center AU 2672 for appropriate action on the amendment submitted May 19, 2004, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/221,316.

It is noted that the address given on the petition does not match the correspondence address of record. A proper change of address and/or power of attorney should be made of record.

Brian Hearn
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

COPY MAILED
MAY 2 3 2006
OFFICE OF PETITIONS

In re Application of
LEE *et al*
Application No.: 09/823,793
Filing Date: March 30, 2001
Docket No.: 2100.004900
For: FOVEATION-BASED ERROR RESILIENCE ALGORITHM

DECISION

ON PETITION UNDER

37 CFR 1.137(b)

This is a decision on the "Petition to Revive Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(B)" filed on November 14, 2005.

The petition under 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. No additional petition fee is necessary.

The above-identified application became abandoned for failure to file a timely and proper reply to the Final Office Action mailed March 2, 2005. The Final Office Action set a shortened period of reply of three (3) months with extensions of time obtainable under §1.136(a).

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Applicants have not furnished the required reply. The proper reply to a Final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. The examiner has determined that the amendment filed on November 14, 2005, does not place the case in *prima facie* condition for allowance. The Examiner's Advisory Action is enclosed. Petitioners must submit a proper reply to the Final Office action mailed on March 2, 2005, with any renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

James Thomson

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

Atch: Advisory Action Before the Filing of an Appeal Brief

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON TX 77042

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OFFICE OF PETITIONS

In re Application of
LEE *et al*
Application No.: 09/823,793
Filing Date: March 30, 2001
Docket No.: 2100.004900
For: FOVEATION-BASED ERROR RESILIENCE ALGORITHM

DECISION ON

RENEWED PETITION

UNDER 37 CFR 1.137(b)

This is a decision on the papers filed 12 June 2006 which are treated as a renewed petition under 1.137(b) and hereby **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the Final Office Action mailed March 2, 2005.

The original petition filed November 14, 2005 was dismissed in a decision mailed May 23, 2006 because applicants did not provide the required reply. The proper reply to a Final Office action is an amendment placing the application in *prima facie* condition for allowance, a Notice of Appeal accompanied by the requisite fee, a Request for Continued Examination (RCE) accompanied by a proper submission, or a continuing application. The examiner determined that the amendment filed with the petition did not place the case in *prima facie* condition for allowance.

In the renewed petition, applicants submitted a proper response to the Office Action (in this case, the filing of a RCE), paid the petition fee and made the required statement of unintentional delay. No terminal disclaimer is required. Accordingly, all requirements of 37 CFR 1.137(b) have been satisfied.

This application is being forwarded to the examiner for continued processing.

James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel: 571-272-3302

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

October 18, 2005

Hickman Palermo Truong & Becker, LLP
2055 Gateway Place
Suite 550
San Jose, CA 95110

In re Application of:	Yu	:	
Application No.	09/823,803	:	DECISION GRANTING THE
Filed:	3/30/01	:	PETITION FILED NOVEMBER 3, 2003
Attorney Docket No.	49986-0504	:	UNDER 37 C.F.R. 1.144
		:	

This decision is in response to the petition filed November 3, 2003 in the above identified application. Petitioner requests review and withdrawal of the final requirement for restriction set forth in the office action dated August 5, 2003.

The petition states that each group identified by the Examiner merely has different preambles but contain identical steps. The petition also states that there would be no serious burden on the Examiner to keep all claims together for purposes of examination.

A review of the claims reveals that the restriction requirement made by the Examiner was not proper. Accordingly, the petition filed under 37 C.F.R 1.114 is GRANTED, and the requirement for restriction initially made on April 11, 2003 is hereby vacated.

It is apparent from the prosecution history that the requirement for restriction was informally vacated by the Examiner even though the petition under 37 C.F.R. 1.144 was never formally responded to by the Office. Accordingly, the application will be passed to issue consistent with the notice of allowability mailed April 13, 2005. The Office sincerely regrets the delay in responding to the petition.

Telephone inquires should be directed to Supervisory Patent Examiner Andrew Hirshfeld at (571) 272-2168.

Andrew Hirshfeld
SPE, AU 2854

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

REILLY INTELLECTUAL PROPERTY LAW FIRM
1554 EMERSON STREET
DENVER CO 80218

In re Application of	:
Csore, et al.	: DECISION ON APPLICATION
Application No. 09/823,814	: FOR PATENT TERM ADJUSTMENT
Filed: March 30, 2001	:
Atty. Dkt. No.: 4175	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed September 13, 2007.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is **DISMISSED**.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed June 13, 2007, indicated a patent term adjustment (PTA) to date of zero days. The instant application for PTA was timely filed September 13, 2007, at the time of submission of the issue fee payment.

The correct PTA at the time of the allowance is zero days, as indicated on the Determination of Patent Term Adjustment mailed June 13, 2007.

Applicants do not dispute the adjustments totaling 178 days that have, to date, been accorded for Office delay under 37 CFR 1.702(a)(1) and 1.702(a)(2).

Applicants dispute the reduction of five days accorded in connection with the amendment after final rejection, filed September 21, 2004.

Applicants further dispute the reduction of 103 days in connection with the response after non-final action, filed August 1, 2005.

Applicants do not contest the remaining reductions accorded at the time of allowance.

The adjustment of 178 was properly reduced five days in connection with the amendment after final rejection filed September 21, 2004 in response to the final rejection mailed

June 16, 2004. The reduction began September 17, 2004, the day after the date that is three months after the date that the final rejection was mailed, and ended September 21, 2004, the date the amendment after final rejection was received.

Applicants argue that the amendment after final rejection filed September 21, 2004 bore a certificate of mailing date of September 15, 2004.

In accordance with 37 CFR 1.703(f), the date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in the calculation of patent term adjustment. Instead, the date of receipt of a reply is used to calculate patent term adjustment. Therefore, the adjustment was properly reduced five days.

The adjustment of 178 days was further properly reduced 103 days in connection with the response after non-final action filed August 1, 2005. In accordance with 37 CFR 1.704(c)(7), the reduction began April 21, 2005, the day after the date that the reply having an omission was filed in response to the non-final Office dated December 15, 2004, and ended August 1, 2005, the date that the reply correcting the previous omission was filed.

Applicants contend that the requirement for information contained in the December 15, 2004 non-final Office action was cumulative under 37 CFR 1.98(c) and that any delay should not be charged to applicants.

Applicants' arguments have been considered, but are not persuasive. A requirement for information under 37 CFR 1.105 is an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, a requirement for information is a notification under 35 U.S.C. 132. See, generally, MPEP 2731. Accordingly, the provisions of 37 CFR 1.704(c)(7) are applicable to the reply submitted August 1, 2005 and the adjustment was properly reduced 103 days.

Applicants further reference the Rule 312 amendment that was submitted September 13, 2007. Applicants are advised that the patent term adjustment indicated in the patent will include any additional patent term reductions that accrue after mailing of the Notice of Allowance.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of

the filing date of the application. A decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term for Office failure to issue the patent within three years. See, 37 CFR 1.703(b).

Further, the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

Applicants are reminded that if an application is entitled to an adjustment under 35 USC 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 USC 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 USC 154(b)(1)(B) in determining whether periods of delay overlap under 35 USC 154(b)(2)(A).

Thus, any days of delay for Office issuance of the patent more than three years after the filing date of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 USC 154(b)(1)(B), 35 USC 154(b)(2)(A), and 37 CFR § 1.703(f). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are given **TWO (2) MONTHS** from the mail date of the instant decision to file a written request for reconsideration of the instant decision as it concerns dismissals of requests for reconsideration of reductions which accrued prior to the mailing of the Notice of Allowance (i.e., the reduction of five days and the reduction of 103 days). Extensions of time pursuant to 37 CFR 1.136 are not available.

Receipt is hereby acknowledged of the required patent term adjustment application fee of $200.00.

This application is being forwarded to the Office of Patent Publications for further processing.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 8

SKJERVEN MORRILL LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

MAIL

MAR 1 8 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
John Porter et al
Application No. 09/823,815
Filed: March 30, 2001
For: **STRUCTURE AND FABRICATION OF LIGHT-EMITTING DEVICE HAVING PARTIALLY COATED LIGHT-EMISSIVE PARTICLES**

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY

This is a decision on the request to withdraw as attorney/agent of record filed on February 20, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

All attorneys and agents of record in this application, including all attorneys and agents associated with Customer Nos. 24251 and 27869 are removed from record.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4701

cc: Wagner Murabito & Hao LLP
Two North Market Street, 3rd Floor
San Jose, CA 95113

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-17-09

Paper No.: _____

TO SPE OF : ART UNIT 2879

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/823815 Patent No.: 6812636

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COFC be Approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Ennis Yank
Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The second version of certificate of correction pages 1-5 are approved.

_____ **SPE**

2889 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

#15

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-145

Sanjeet K. Dutta
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

MAILED

DEC 16 2003

Office of the Director
Group 3600

In re application of
Sean B. Weatherill
Application No. 09/823,816 :
Filed: March 30, 2001 :
For: METHOD AND APPARATUS FOR DISPLAYING : WORKS OF ART

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the renewed request filed on August 11, 2003, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks conditions A) and B) above.

As to condition A)the attorneys associated with Customer Number 08791 do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. To alleviate this problem, it is suggested that the request be resubmitted and that such request specifically state that the signing attorney is signing on behalf of all attorneys of record in this application.

As to condition B) there is no indication in the file record of the assignee being the "client", and responsible for payment of legal fees. Absent a 3.73(b) statement, the "client" referred to in 37 CFR 10.40 is seen as being those individuals who conferred power upon the attorneys, in this case the inventors. Therefore, the stated reason for withdrawal that "Pikture Klips LLC. Files and Information are being released to the firm noted below"., is improper. A proper reason for withdrawal as enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 12/11/03

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

COPY MAILED

SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:	
KIRKWOOD et al.	:	DECISION
Application No. 09/823,819	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 50325-0528	:	

This is a decision on the petition filed June 25, 2005 based on 37 CFR 1.137(b) for revival of the above-identified application.

The petition is **DISMISSED** as being moot.

A final rejection was mailed to Applicant on November 30, 2004. On January 19, 2005 (certificate of mailing of January 14, 2005), Applicant filed on an amendment under 37 CFR 1.116 within two months of the mailing of the final rejection. To this date, no Advisory Action or Notice of Allowance has been mailed. However, Applicant notes a PAIR entry of "Notice of Allowability – Allowance Counted." This entry dated February 28, 2005 provides the necessary evidence that Examiner found the amendment of January 19, 2005 fully responsive to the final rejection and placed the case *prima facie* in condition for allowance. Since the after-final amendment was timely filed and fully responsive to the final rejection of November 20, 2004, the application is still pending.

The petition fee of $1500 for the petition to revive based on 37 CFR 1.137(b) is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2161 for further processing.

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JJGJr: 08-03

Paper No: 16

CAMPBELL STEPHENSON
ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

COPY MAILED

AUG 2 8 2003

OFFICE OF PETITIONS

In re Application of :
Chen, et al. :
Application No. 09/823,828 : DECISION ON PETITION
Filed: 31 March, 2001 :
Attorney Docket No.: SLB0006US :

This is a decision on the petition filed on 18 June, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).[1]

The petition is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.137(f) (a request for relief under 37 C.F.R. §1.137(b)) must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should

[1] Effective December 1, 1997, the provisions of 37 C.F.R. §1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 C.F.R. §1.137(b). a grantable petition filed under the provisions of 37 C.F.R. §1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 C.F.R. §1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 C.F.R. §1.20(d)) required pursuant to 37 C.F.R. §1.137(c). (Emphasis supplied.)

include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(f)";

Thereafter, there will be no further reconsideration of this matter.

ANALYSIS

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

(1) the reply, which is met by revocation of the non-publication request and Notice of the filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 C.F.R. §1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition fails to satisfy item (1).[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: (Effective 1 May, 2003)[3]
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 308-6916
ATTN.: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

---

[2] See: Form PTO/SB/36, a copy of which is enclosed. Such materials may be found at http://www.uspto.gov/web/forms/index.html

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.: Form PTO/SB/36

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JJGJr: 10-03

Paper No: 18

CAMPBELL STEPHENSON
ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

COPY MAILED

NOV 2 1 2003

OFFICE OF PETITIONS

In re Application of	:	
Chen, et al.	:	
Application No. 09/823,828	:	DECISION ON PETITION
Filed: 31 March, 2001	:	
Attorney Docket No.: SLB0006US	:	

This is a decision on the renewed petition filed on 2 October, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of Petitioner identifies as "an International Application" filed on 29 March, 2002. However, while Petitioner rescinded his non-publication request in a submission on 8 April, 2002, (within 45 days of the international application filing) Petitioner unintentionally failed to "Notice" the US Patent and Trademark Office within 45 days subsequent to the filing of the international application.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 C.F.R. §1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. Because the Office data base indicating an actual publication date of 23 January, 2003, no Notice Regarding Rescission of Nonpublication Request indicating a projected accompanies this decision on petition.

The application is being forwarded to Technology Center 2100 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

OIPE JC114
JUL 0 2 2001
PATENT & TRADEMARK

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/823,829	03/30/2001	Satoshi Yamamoto	12817-004001

CONFIRMATION NO. 9429

FORMALITIES LETTER

OC000000006158818

CHRIS T. MIZUMOTO
Fish & Richardson P.C.
Suite 2800
45 Rockefeller Plaza
New York, NY 10111

Date Mailed: 06/07/2001

Registered by Practice Systems
Action code: MP
Date Mailed: 6-7-01
Time Mailed: 8-7-01
Deadline: 12-7-01
Initials: jl
Record: 43725

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- An abstract was not provided for this application. An abstract of the technical disclosure is required under 37 CFR 1.72(b).

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821 (g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825

(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202
PART 1 - ATTORNEY/APPLICANT COPY

OIPE JC114
JUL 0 2 2001
PATENT & TRADEMARK OFFICE

Attorney's Docket No. [redacted]817-004001 / PH-581US-CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Yamamoto et al.
Serial No. : 09/823,829
Filed : March 30, 2001
Title : METHOD FOR IDENTIFICATION AND DETECTION OF MICROORGANISMS USING GYRASE GENE AS AN INDICATOR

Art Unit : Unknown
Examiner : Unknown

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

SUBMISSION OF MISSING PARTS OF APPLICATION

This application was filed without a declaration signed by the inventor. A Notice to File Missing Parts was never issued. In order to complete this application, applicant as a large entity submits herewith the following:

- ☐ Payment of the basic filing fee of $0;
- ☐ Payment of the additional/multiple dependent claims fees of $0;
- ☒ Check in payment of $130 surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application;
- ☐ A Verified Statement Claiming Small Entity Status;
- ☒ Combined Declaration and Power of Attorney in compliance with 37 CFR §1.63;
- ☐ A verified English translation of the application and payment of the $0 fee required under 37 CFR §1.17(k); and
- ☐ Other:

It is understood that this perfects the application and no additional papers or filing fees are required. Please apply any other charges or credits to Deposit Account No. 06-1050.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

April 26, 2001
Date of Deposit

Rose Papetti
Signature

Rose Papetti
Typed or Printed Name of Person Signing Certificate

Sector N

OIPE JC114
JUL 0 2 2001
PATENT & TRADEMARK OFFICE

Attorney's Docket No. [redacted]7-004001 / PH-581US-CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Satoshi Yamamoto et al.
Serial No. : 09/823,829
Filed : March 30, 2001
Title : METHOD FOR IDENTIFICATION AND DETECTION OF MICROORGANISMS USING GYRASE GENE AS AN INDICATOR

Art Unit : Unknown
Examiner : Unknown

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION

A Notice to File Missing Parts dated Jun 7, 2001 indicated that (1) the oath or declaration is missing, (2) an abstract was not provided, and (3) a copy of the Sequence Listing in computer readable form and a statement that the computer readable from is identical to the written sequence listing have not been submitted.

Regarding item (1) above, an executed declaration and the requisite fee in connection with the present application was filed with the UTPTO on April 26, 2001. As evidence, copies of the transmittal letter and the declaration as well as a copy of a check to cover the requisite fee are provided herein.

Regarding item (2) above, the abstract is provided under the heading of "Effect of the Invention" on page 19 of the present specification. A preliminary amendment is attached herein to correct the heading from "Effect of the Invention" to "Abstract of the Invention."

Regarding item (3), the sequence listing in computer readable form and the requisite statement have been filed with the USPTO on June 12, 2001. A copy of the statement is enclosed as evidence.

With this response, applicants submit that the missing parts requirements have been satisfied.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

June 26, 2001
Date of Deposit

Rose Papetti
Signature

Rose Papetti
Typed or Printed Name of Person Signing Certificate

If there are any charges or credits, please apply them to Deposit Account No. 06-1050.

Respectfully submitted,

Date: June 26, 2001

Chris T. Mizumoto
Reg. No. 42,899

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111
Telephone: (212) 765-5070
Facsimile: (212) 258-2291

30056678.doc

REMARKS

The original sequence listing in computer readable form was filed on June 12, 2001. A Notice to File Missing Parts dated June 7, 2001 requested a copy of a sequence listing in computer readable form. A response was filed on June 26, 2001 indicating that a copy of a sequence listing in computer readable form was filed on June 12, 2001. Applicants submit that the response had satisfied and fulfilled the Notice to File Missing Parts.

A call from Ms. Nelson [Tel. No. (703) 305-5531] of the USPTO was received on March 6, 2002. She indicated that a copy of a sequence listing in computer readable form with respect to the present application was lost or misplaced and requested that another copy be filed. When preparing the second copy in compliance with the request, some informalities were noticed in the original sequence listing. Thus, a new corrected copy is being filled together with this amendment.

Applicants hereby submit that the enclosures fulfill the requirements under 37 C.F.R. §1.821-1.825. The amendments in the specification merely insert sequence identifiers in the specification and replace the original Sequence Listing with an amended substitute Sequence Listing. Specifically, the amino acid sequence disclosures on page 4 are included in the substitute Sequence Listing as SEQ ID NO:81 and 82. No new matter has been added.

Attached hereto is a marked-up version of the changes made to the specification by the current amendment.

Applicants believe that no fee is due but, if necessary, please apply any charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 12817-004001.

Respectfully submitted,

Date: 3/8/02

Chris T. Mizumoto
Reg. No. 42,899

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111
Telephone: (212) 765-5070
Facsimile: (212) 258-2291

20399929.doc

H-A 0420 0300 Attorney's Docket No.: 12817-004001 / PH-581US-CIP See for # #3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Yamamoto et al.
Serial No. : 09/823,829
Filed : March 30, 2001
Title : METHOD FOR IDENTIFICATION AND DETECTION OF MICROORGANISMS USING GYRASE GENE AS AN INDICATOR

Art Unit : Unknown
Examiner : Unknown

BOX MISSING PARTS
Commissioner for Patents
Washington, D.C. 20231

OIPE JC62
APR 30 2001
PATENT & TRADEMARK OFFICE

SUBMISSION OF MISSING PARTS OF APPLICATION

This application was filed without a declaration signed by the inventor. A Notice to File Missing Parts was never issued. In order to complete this application, applicant as a large entity submits herewith the following:

- ☐ Payment of the basic filing fee of $0;
- ☐ Payment of the additional/multiple dependent claims fees of $0;
- ☒ Check in payment of $130 surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application;
- ☐ A Verified Statement Claiming Small Entity Status;
- ☒ Combined Declaration and Power of Attorney in compliance with 37 CFR §1.63;
- ☐ A verified English translation of the application and payment of the $0 fee required under 37 CFR §1.17(k); and
- ☐ Other:

It is understood that this perfects the application and no additional papers or filing fees are required. Please apply any other charges or credits to Deposit Account No. 06-1050.

05/02/2001 AGOITOM 00000138 09823829
01 FC:105 130.00 OP

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

April 26, 2001
Date of Deposit

Rose Papetti
Signature

Rose Papetti
Typed or Printed Name of Person Signing Certificate

Respectfully submitted,

Date: April 26, 2001

Chris T. Mizumoto
Reg. No. 42,899

Fish & Richardson P.C.
45 Rockefeller Plaza, Suite 2800
New York, NY 10111
Telephone: (212) 765-5070
Facsimile: (212) 258-2291

30048132.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 15

CAMPBELL STEPHENSON ASCOLESE LLP
4807 SPICEWOOD SPRINGS RD
BLDG 4 SUITE 201
AUSTIN TX 78759

COPY MAILED

AUG 1 1 2003

OFFICE OF PETITIONS

In re Application of Chen, et al. Application No. 09/823,835 Filed: March 21, 2001 Attorney Docket No. M-11529 US	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed June 18, 2003.

The petition is **GRANTED**.

Petitioner states that the instant patent is the subject of a PCT international application filed on March 29, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The application is being forwarded to Technology Center 2100, Group Art Unit 2153, for examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAIL

Paper No. 5

DEC 01 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

Leah Sherry
OPPENHEIMER WOLFF & DONNELLY LLP
1400 Page Mill Road
Palo Alto, CA 94304-1124

In re Application of:	)	
Smith	)	
Application No. 09/823,837	)	**DECISION ON REQUEST FOR**
Filed: March 30, 2001	)	**WITHDRAWAL AS ATTORNEY**
For: METHOD OF MIXED WORKLOAD HIGH PERFORMANCE SCHEDULING	)	

This is a decision on the Request To Withdraw from Representation filed May 16, 2003.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed May 16, 2003 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews
for Vincent N. Trans
Special Programs Examiner
Technology Center 2100
Computer Architecture and Software
(703) 305-9750

cc: Att: Bill Streeter
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collin, CO 80527-2400

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/19/06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/823841** Patent No.: **6987613**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext.

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Changes approved to correct for typographical error and to remove antecedent basis problem.

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

2872
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Patent No. 6,869,430 :
Issue Date: March 22, 2005 :
Application No. 09/823,903 : NOTICE
Filed: March 30, 2001 :
Attorney Docket No. 37167-8039.US00 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of :
Daniel J. Balbierz et al. :
Application No. 09/823,910 :
Patent No. 7,025,765 :
Filed: March 30, 2001 :
Issue Date: April 11, 2006 :
Attorney Docket No. 13724-845 :
Title: TISSUE BIOPSY AND :
TREATMENT APPARATUS AND METHOD :

DECISION ON PETITION
UNDER 37 C.F.R. §1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 C.F.R. § 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR §1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR §1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR §1.28 is hereby accepted. The petition is **GRANTED** accordingly.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
SUITE 3400
1420 FIFTH AVENUE
SEATTLE WA 98101

COPY MAILED

MAY 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Peterson et al.	:	
Application No. 09/823,935	:	DECISION ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. 500891.01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2628 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

09/823937

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-2-05

TO SPE OF : ART UNIT 1731

SUBJECT : Request for Certificate of Correction on Patent No.: 6851280

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - ~~PK 3-922~~ South Tower 9A22
Palm location **7580** - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Check claims

Ennis Young

Thank You For Your Assistance — **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

SEAN VINCENT
PRIMARY EXAMINER
11-4-05

SPE — Art Unit 1731

PTOL-306 (REV. 7/03) — U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

COPY MAILED
SEP 25 2006
OFFICE OF PETITIONS

In re Patent No. 7,046,778	:	
Issue Date: May 16, 2006	:	
Application No. 09/823,938	:	NOTICE
Filed: March 30, 2001	:	
Attorney Docket No. 102374-0017	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No. 14

Kilpatrick Stockton
1001 West Fourth Street
Winston-Salem, NC 27101-2400

COPY MAILED
MAR 29 2004
OFFICE OF PETITIONS

In re Application of	:	
Louis B. Rosenberg	:	
Application No. 09/823,943	:	ON PETITION
Filed: March 30, 2001	:	
Attorney Docket No. IMMP127	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 3, 2003, to revive the above-identified application.

The petition is Granted.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the non-final Office action mailed September 13, 2002, which set a shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on December 14, 2002.

The application file is being forwarded to Technology Center AU 3712 for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond

Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 21, 2005

TO SPE OF : ART UNIT 2851

SUBJECT : Request for Certificate of Correction on Patent No.: 6,903,801

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Alan Mathews — **SPE**

2851 — **Art Unit**

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,903,801 B2

DATED : June 7, 2005

INVENTOR(S): Kenichiro MORI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Approved AM 12-13-05

ON THE COVER PAGE:

In item "(57) **ABSTRACT**," delete the current abstract and insert the following therefor:

-- An illumination optical system for illuminating a surface, to be illuminated, with use of light from a light source. The illumination optical system includes a diffractive optical element for forming a desired light intensity distribution upon a predetermined plane, an angular distribution transforming unit for transforming an angular distribution of light incident or to be incident on the diffractive optical element into a desired distribution, the angular distribution transforming unit also being operable to change the desired distribution, a multiple beam producing unit, wherein the predetermined plate is a light entrance surface of the multiple beam producing unit, and a light projecting element for superposing light rays from the multiple beam producing unit one upon another on the surface to be illuminated. --

IN THE DRAWINGS:

In "Sheet 1 of 7," "FIG. 1A," in the top right reference description, "APERTUR" should read -- APERTURE --.

MAILING ADDRESS OF SENDER:

PATENT NO. 6,903,801 B2

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

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CERTIFICATE OF CORRECTION

PATENT NO. : 6,903,801 B2

DATED : June 7, 2005

INVENTOR(S): Kenichiro MORI

Approved AM 12-13-05

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 1:

Line 24, "NO." should read -- No. --.

Line 64, "NO." should read -- No. --.

COLUMN 4:

Line 23, "opitcal" should read -- optical --.

MAILING ADDRESS OF SENDER:

PATENT NO. 6,903,801 B2

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
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MAY 09 2005

OFFICE OF PETITIONS

ROY MATTHEW MILNER
7425 SOUTH BUSHNELL BLVD.
BROKEN ARROW, OK 74014-2510

In re Application of :
Milner : DECISION ON PETITION
Application No. 09/824,003 :
Filed: April 2, 2001 :
Docket No.: :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 22, 2004, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned January 4, 2004 for failure to timely reply to the non-final Office action mailed October 3, 2003. The Notice set a three (3) month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed April 16, 2004.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision will be mailed to petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application will be forwarded to Technology Center 2100 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Louis C. Dujmich
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

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JAN 29 2007

OFFICE OF PETITIONS

In re Patent No. 6,924,366 :
Issue Date: August 2, 2005 :
Application No. 09/824,053 : ON PETITION
Filed: April 3, 2001 :
Attorney Docket No. 14923.0014 :

This is a decision on the petition filed December 7, 2005, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

COPY MAILED

JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Stephenson et al.	:	
Application No. 09/824,132	:	ON PETITION
Filed: April 3, 2001	:	
Attorney Docket No. 00479.00001	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 24, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed Provisional Application No. 60/196,096, filed April 11, 2000.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000.

The instant pending nonprovisional application was filed on April 3, 2001, and was pending at the time of filing of the instant petition. While a reference to the above-noted, prior-filed application was not included in an ADS or in the first sentence of the specification following the title, reference nevertheless was made in an amendment submitted on August 3, 2001, which was within four months of the filing date, complying with 37 CFR 1.78(a)(5)(ii). Although the amendment did not properly revise the first sentence of the specification following the title to include a reference to the above-noted, prior-filed application, the Office nevertheless noted the claim for priority. Accordingly, the instant petition is dismissed as moot.

In view of the above, the $1370.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the Examiner of Technology Center AU 2145 to await a response to the final Office action mailed on April 7, 2005.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 13

SKJERVEN MORRILL MACPHERSON LLP
25 METRO DRIVE
SUITE 700
SAN JOSE CA 95110

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JUN 24 2003

OFFICE OF PETITIONS

In re Application of :
Scott Shyh Guang Yen :
Application No. 09/824,175 : ON PETITION
Filed: March 30, 2001 :
Attorney Docket No. M-11437 US :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 21, 2003.

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of a PCT international application filed on February 7, 2002. However, the US Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the PCT application. A Notice of Abandonment was mailed on May 21, 2003.

In view of the above, this application became abandoned pursuant to 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 USC 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

With the instant petition, petitioner has submitted a Revocation and Power of Attorney by assignee Vitria Technology, Inc. However, the Revocation and Power of Attorney does not comply with 37 CFR 3.73(b)(2). The Revocation and Power of Attorney has not established that William McGrath is authorized to act on behalf of the assignee.[1] A copy of the Revocation and Power of Attorney will remain in the file, but it has not been entered. Accordingly, future corresondence concerning this application will be forwarded to the above address of record until such time as proper instructions to the contrary are received.

The application is being forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: Notice Regarding Rescission of Nonpublication Request (1 page)

cc: Marc S. Kaufman
Nixon Peabody LLP
8180 Greensboro Drive
McLean, Virginia 22102

---

[1] See 37 CFR 3.73(b)(2).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

STEVEN F. WEINSTOCK
ABBOTT LBORATORIES
D-377/AP6D
100 ABBOTT PARK ROAD
ABBOTT PARK, IL 60064-3500

COPY MAILED

FEB 0 7 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Roch et al.
Application No. 09/824,178
Filed: April 2, 2001
Attorney Docket No. 6024.US.C1

This is a decision on the petition under 37 CFR 1.137(b), filed on December 21, 2001, to revive the above-identified application.

The petition is **GRANTED.**

The application was filed on April 2, 2001. On May 1, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Corrected Application Papers ("5/1/01 Notice"), stating that substitute drawings in compliance with the margins requirements of 37 CFR 1.84 must be timely submitted to avoid abandonment of this application.[1] An extendable 2-month period was provided for submitting the corrected drawings.[2] The corrected drawings were not filed, and no extension of time was obtained. Accordingly, this application became abandoned on July 2, 2001 for failure to timely submit a proper reply to the 5/1/01 Notice.[3] This petition precedes the

---

[1] MPEP section 507 (Aug. 2001) (To implement 18-month pre-grant publication of patent applications, the PTO has revised its drawing review process such that drawings in new utility/plant applications filed on or after 11/29/00, which is the case here, are initially reviewed by the OIPE to see if they can be effectively scanned and adequately reproduced. If the drawings are not acceptable, OIPE will object to the drawings, and notify the applicant to timely submit acceptable drawings to ensure timely publication of the application . . . [C]orrected drawings must be [timely] filed . . . to avoid abandonment of the application.).

Also, 37 CFR 1.85(a) (A utility/plant application will not be placed on the files for examination until objections to the drawings have been corrected); and MPEP section 608.02(a) (Aug. 2001) (OIPE will not release applications to the Technology Centers [for examination] until acceptable drawings are filed . . . If a drawing is not timely received [by the PTO] in reply to a notice . . . , the application becomes abandoned for failure to reply.).

[2] The 2-month period for reply to a Notice to File Corrected Application Papers, similar to that in a Notice to File Missing Parts, is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions under 37 CFR 1.136(a) of up to 5 months are permitted. See MPEP 710.02(d) (Aug. 2001). In the instant case, the maximum extendable reply period would expire on 12/1/01 if the maximum 5-month extension of time had been obtained.

[3] 37 CFR 1.135 (If an applicant . . . fails to reply within the time period provided . . . , the application will become abandoned . . .).

mailing of a notice of abandonment.

The instant petition encloses a set of corrected drawings in reply to the 5/1/01 Notice, and an authorization to charge the $1,280 petition fee to Deposit Account No. 01-0025. The petition is thus granted. The petition fee has been charged as authorized.

This application is being returned to OIPE for further processing.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.

Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

RC Tang
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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January 2005

KENYON & KENYON
One Broadway
New York, NY 10004

FEB - 2 2005

In re Application of:
Johannes-Joerg Rueger et al.
Serial No.: 09/824,191
Filed: April 2, 2001
Attorney Docket No.: 10744/6000

DECISION ON REQUEST
TO REMAIL OFFICE ACTION

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT -- OFFICE ACTION NOT RECEIVED" filed on July 12, 2004. It is being treated as a request to remail Office action.

The request is **GRANTED**.

A final Office action was mailed on December 16, 2003. There was no response to this Office action within the six month statutory period set forth in 35 U.S.C. 133. Thus, the application became abandoned by operation of law for failure to reply to the Office action. However, no Notice of Abandonment has been mailed.

Petitioner asserts applicant did not receive the Office action of December 16, 2003. The petition provides the required showing under MPEP § 711.03(c)(II) to establish nonreceipt of an Office action. It includes a statement from the practitioner stating that the Office action of December 16, 2003 was not received and attesting to the fact that a search of the file and docket records indicates that the Office action was not received. It also includes a copy of the docket records where the nonreceived Office action would have been entered had the Office action been received. The evidence is sufficient to establish that the Office action of December 16, 2003 was not received.

Accordingly, the Office action of December 16, 2003 will be remailed and a new shortened statutory period for response to this Office action will be set to expire three months from the date of remailing.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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CONNOLLY BOVE LODGE & HUTZ LLP
1875 EYE STREET, N.W.
SUITE 1100
WASHINGTON DC 20036

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
Steve J. SHATTIL :
Application No. 09/824,264 : DECISION ON PETITION
Filed: April 2, 2001 :
Attorney Docket No. 27592-00511-US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 2008, to revive the above-identified application and the paper filed March 28, 2008, notifying that status as a Small Entity is no longer applicable.

The petition is **GRANTED**.

In accordance with the notification in the paper filed March 28, 2008, status as a Small Entity has been removed.

This application became abandoned for failure to timely pay the issue and publication fees on or before February 20, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 20, 2007. Accordingly, the date of abandonment of this application is February 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272 - 4914.

This application is being referred to the Office of Data Management for processing into a patent.

Anthony Knight for
David Bucci
Petitions Examiner
Office of Petitions

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Paper No. 14

THE GILLETTE COMPANY
PRUDENTIAL TOWER BUILDING
BOSTON, MA 02199

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JUN 0 7 2004

OFFICE OF PETITIONS

In re Application of :
William R. Brown, et al. :
Application No. 09/824,310 :
Filed: April 2, 2001 :
Attorney Docket No. OB-193 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 22, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 23, 2004.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, the $950 extension of time submitted with the petition on May 24, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account number 07-1350.

The application file is being forwarded to Technology Center 1700, Art Unit 1744 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-5594.

Retta Williams

Retta Williams
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No. 15

VEDDER PRICE/ACCENTURE
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Edward J. Gottsman :
Application No. 09/824,355 :
Filed: April 2, 2001 :
Attorney Docket No. 05222.00108 :

ON PETITION

This is a decision on the petition, filed January 10, 2005, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s)(1).

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 14, 2003, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). No amendment *prima facie* placing the application in condition for allowance or Notice of Appeal (and appeal fee) was timely filed, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 15, 2004.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (703) 872-9306
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 16

VEDDER PRICE/ACCENTURE
222 NORTH LASALLE STREET
CHICAGO, IL 60601

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APR 11 2005

OFFICE OF PETITIONS

In re Application of
Edward J. Gottsman
Application No. 09/824,355
Filed: April 2, 2001
Attorney Docket No. 05222.00108

ON PETITION

CORRECTED DECISION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed January 10, 2005, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application was held abandoned for failure to reply in a timely manner to the final Office action mailed October 14, 2003, which set a shortened statutory period for reply of three (3) months. However, the petitioner submitted a power of attorney on August 1, 2003. Unfortunately, the power of attorney was not entered until May 5, 2004 when a facsimile copy was submitted. Therefore, the final Office action mailed October 14, 2003 was mailed to the petitioner's former mailing address. Petitioner states in the January 10, 2005 letter that the Applicant's attorneys did not receive the final Office action. The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

The decision mailed March 25, 2005 is hereby vacated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

The application is being forwarded to Technology Center AU 2172.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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Paper No. 3

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
SUITE 201
MENLO PARK CA 94025

MAILED

MAY 2 8 2003

Technology Center 2600

In re Application of	:	
WACHSMAN, JOHN M.	:	
Application No. 09/824,360	:	DECISION ON REQUEST TO
Filed: April 2, 2001	:	WITHDRAW AS ATTORNEY
For: METHOD AND SYSTEM FOR	:	
PERFORMING OTDM	:	

This is a decision on the request to withdraw as attorney/agent of record filed on May 5, 2003.

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Dennis S. Fernandez is removed from the record, since he is the only attorney/agent specifically mentioned in the request. Peter C. Su and Zhuanjia Gu remain of record, since there is no indication in the request to remove these attorneys/agents. The Request checks the box for Customer Number, but no number is listed.

All future communications from the Office will be directed to the address listed below until otherwise notified by Applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth Wieder
For Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

cc. ERIC L. MASCHOFF
WORKMAN, NYDEGGER, & SEELEY
60 E. SOUTH TEMPLE, SUITE 1000
SALT LAKE CITY, UT 84111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 16, 2006

TO SPE OF : ART UNIT 2662

SUBJECT : Request for Certificate of Correction on Patent No.: 6,954,455 /09/824,378
~~No. 09/818,626~~

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

_____

_____

_____

_____

_____

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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JUN 07 2010

OFFICE OF PETITIONS

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

In re Application of :
Kassan, et al. : DECISION ON PETITION
Application No. 09/824,404 :
Filed: April 2, 2001 :
Atty. Dkt. No.: P/3704-15 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 8, 2010.

The Notice of Abandonment mailed January 5, 2010 indicates that the application is abandoned for failure to timely submit a proper reply to the decision by the Board of Patent Appeals and Interferences, mailed October 28, 2009.

Petitioner asserts that on December 28, 2009, a request for continued examination (RCE) (including fee and submission) was timely filed within two months of mail date of the decision by the Board of Patent Appeals and Interferences mailed October 28, 2009.

The RCE filed December 28, 2009 has been located in the official application file.

In view of the evidence presented, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 2156 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 32

ADVANTAGE PARTNERS IP, LLC
P.O. BOX 910377
SAN DIEGO, CA 92121-0377

COPY MAILED

MAR 1 2 2004

OFFICE OF PETITIONS

In re Application of :
Alan Backus et al :
Application No. 09/824,429 : ON PETITION
Filed: April 2, 2001 :
Attorney Docket No. 42205/GSL/A641

This is a decision on the petition under 37CFR 1.137(b), filed March 5, 2004, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed October 23, 2002, which set a shortened statutory period for reply of three (3) months. One month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 24, 2003.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The person signing the instant petition also requests a change of correspondence address to the address given in the instant petition. However, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The above-identified application is being revived solely for purposed of continuity with a Request For Continued Examination (RCE) filed on March 5, 2004.

Telephone inquiries should be directed to Irvin Dingle at (703) 306-5684.

The application file is being forwarded to Technology Center AU 1761 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc:

William J. Kolegraff
3119 Turnberry Way
Jamul, CA 91935

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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OFFICE OF PETITIONS

DUANE MORRIS LLP
PO BOX 5203
PRINCETON, NJ 08543-5203

In re Application of Luther Jackson, et al. Application No. 09/824,430 Filed: April 2, 2001 Attorney Docket No. GE-07043	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 11, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 7, 2007. On June 11, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on June 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,400 issue fee and the $300 publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Publishing Division to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/824,483	05-May-04	TARO TOKUHIRO, ET AL.	39303.20239.00

Title: METHOD FOR SELLING ITEMS USING A NETWORK

Art Unit	Paper Number

Correspondence Address:
DAVID L. FEHRMAN
MORRISON & FOERSTER
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA. 90013-1024

PATENT & TRADEMARK OFFICE
MAILED
MAY 24 2004
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

David L. Fehrman
Morrison & Foerster LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013-1024

In re:	Tokuhiro et al	:	DECISION ON REQUEST
Serial No.:	09/824,483	:	UNDER 37 CFR 5.25
Filing date:	March 30, 2001		
Docket No:	39303.2023900		

Title: **METHODS FOR SELLING ITEMS USING A NETWORK**

This is a decision on the petition filed on May 5, 2004 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is denied under 37 CFR 5.25 (3)(iii). In order to secure a retroactive foreign filing license, applicant or petitioners must provide evidence that the subject matter was filed abroad through error and without deceptive intent. The instant petition fails in that it lacks sufficient evidence to conclude that the material was filed abroad through error and without deceptive intent. Specifically, the petition needs to elucidate upon circumstances that led to discovery of the proscribed filing. Mr. Mizuno avers that "during this time, (presumably between March 9, 2001 and March 20, 2001 he became aware of possible filing license requirements for inventions made in the US". However, the statement regarding awareness of the proscribed filing is not supported by facts (i.e., copies of any necessary supporting documents such as letters of transmittal or instructions for filing) to support the statement of error of filing and more

specifically, the circumstances of when and how he became aware of the requirements and thus the error of filing abroad before securing a foreign filing license.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/824,483	05-May-04	TARO TOKUHIRO, ET AL.	39303.20239.00

Title: METHOD FOR SELLING ITEMS USING A NETWORK

Art Unit	Paper Number

Correspondence Address:
DAVID L. FEHRMAN
MORRISON & FOERSTER
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA. 90013-1024

PATENT & TRADEMARK OFFICE
MAILED
JUL 26 2004
LICENSING & REVIEW

Please find attached a communication from the Examiner regarding the Petition for Retroactive License under 37 CFR 5.25.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

David L. Fehrman
Morrison & Foerster LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013-1024

In re:	Tokuhiro et al	:	DECISION ON REQUEST
Serial No.:	09/824,483	:	UNDER 37 CFR 5.25
Filing date:	March 30, 2001		
Docket No:	39303.2023900		

Title: **METHODS FOR SELLING ITEMS USING A NETWORK**

This is a decision on the petition filed on May 5, 2004 for retroactive foreign filing license.

37 CFR 5.25(a) requires the following:

1. A listing of each of the foreign countries in which the unlicensed patent application material was filed,
2. The dates on which the material was filed in each country,
3. A verified statement (oath or declaration) containing:
   i. An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
   ii. A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
   iii. An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and
4. The required fee (§ 1.17(h)).

The petition is denied under 37 CFR 5.25 (3)(iii). In order to secure a retroactive foreign filing license, applicant or petitioners must provide evidence that the subject matter was filed abroad through error and without deceptive intent. The instant petition fails in that it lacks sufficient evidence to conclude that the material was filed abroad through error and without deceptive intent. Specifically, the petition needs to elucidate upon circumstances that led to discovery of the proscribed filing. Mr. Mizuno avers that "during this time, (presumably between March 9, 2001 and March 20, 2001 he became aware of possible filing license requirements for inventions made in the US". However, the statement regarding awareness of the proscribed filing is not supported by facts (i.e., copies of any necessary supporting documents such as letters of transmittal or instructions for filing) to support the statement of error of filing and more

specifically, the circumstances of when and how he became aware of the requirements and thus the error of filing abroad before securing a foreign filing license.

Accordingly, the provisions of 37 CFR 5.25 not having been fully met, the petition is denied, and in the absence of any response within **60 days** of the mailing date of this letter, such denial will be made final and the final action under 35 U.S.C. 185 will be taken. Extensions of time may be had under 37 C.F.R. 1.136(a).

Ian J. Lobo
Patent Examiner
(703) 306-4161

09-27-04

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DAC
#11

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV375955923US, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: September 24, 2004 Signature: (Marco Jimenez)

OIPE JC168 SEP 24 2004 PATENT & TRADEMARK OFFICE

Docket No.: 393032023900
Client reference: PA0009US (H7450US)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Taro TOKUHIRO et al.

Application No.: 09/824,483

Filed: March 30, 2001

For: METHOD FOR SELLNG ITEMS USING A NETWORK

RECEIVED
OCT 13 2004
LICENSING & REVIEW

Group Art Unit: 3625

Examiner: Mark Fadok
(Examination)
Ian Lobo (Licensing/Review)

RESPONSE TO DENIAL OF PETITION FOR RETROCATIVE LICENSE

UNDER 37 CFR 5.25

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to a denial of a petition for a retroactive license under 37 CFR 5.25 mailed on July 26, 2004, requesting a response within 60 days of the mailing date. Enclosed herewith is copy of the denial.

Applicants submitted a petition for retroactive license concurrently with the filing of the above application on March 30, 2001. The petition received the serial number P-104,003. The petition was subsequently reviewed, and a retroactive foreign filing license bearing number 527,180

was granted on July 9, 2001. The USPTO subsequently reviewed the petition and denied it on May 24, 2004 apparently without knowledge that a retroactive license had already been granted. In a response dated July 12, 2004, Applicants respectfully submitted that a retroactive foreign filing license had been granted, and the denial of the petition on May 24, 2004 should be withdrawn. The USPTO renewed its denial on July 26.

In the renewed denial, the Examiner requested a further showing of "why the material was filed abroad through error and without deceptive intent" as set forth in 37 C.F.R. § 5.25(a)(3)(iii). Applicants are submitting herewith a supplemental declaration of Shigehiko Mizuno to provide, along with Mr. Mizuno's original declaration, the necessary showing required under the cited section (without prejudice to their position that a license has already been granted). In view of the original and supplemental declarations and the submission on March 30, 2001, Applicants respectfully request the Examiner grant the petition and issue a retroactive license.

If, for any reason, the Examiner needs further assistance, Applicants request that the Examiner contact the undersigned attorney at the Los Angeles telephone number (213) 892-5630.

In the unlikely event that the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 393032023900.

Dated: September 24, 2004

Respectfully submitted,

By_____

Mehran Arjomand
Registration No.: 48,231
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Los Angeles, California 90013
(213) 892-5200

la-749413

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Mehran Arjomand
MORRISON & FOERSTER LLP
555 West Fifth Street, Suite 3500
Las Angeles, California 90013

In re:	Tokuhiro et al	:	DECISION ON REQUEST
Serial No.:	09/824,483	:	UNDER 37 CFR 5.25
Filing date:	March 30, 2001		
Docket No:	393032023900		

Title: **METHOD FOR SELLING ITEMS USING A NETWORK**

This is a decision on the petition filed on September 24, 2004 for retroactive foreign filing license.

It has been determined that a retroactive license for foreign filing under 35 U.S.C.184 be granted with respect to the filings listed below. The petition complies with 37 C.F.R. 5.25 in that there is an adequate showing that the subject matter in question was not under a secrecy order, that the license was diligently sought after discovery of the proscribed foreign filing, and that the material was filed abroad without the required license under 37 C.F.R 5.11 through error and without deceptive intent.

Country	**Date**
Korea	March 20, 2001
Singapore	March 20, 2001
China	March 20, 2001
Japan	December 28, 2000
EPO	March 9, 2001

Ian J. Lobo
Patent Examiner
(703) 306-4161

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	REQUEST DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/824,483	**5/5/04**	**TARO TOKUHIRO, ET AL.**	**39303.20239.00**

Title: **METHOD FOR SELLING ITEMS USING A NETWORK**

Art Unit	Paper Number

Correspondence Address:
DAVID L. FEHRMAN
MORRISON & FOERSTER
555 WEST FIFTH STREET, SUITE 3500
LOS ANGELES, CA. 90013-1024

Licensee under 35 U.S.C. 184 is hereby granted to file in any foreign country a patent application and any amendments thereto corresponding to the subject matter of this U.S. application identified above and/or any material accompanying the petition. This license is conditioned upon modification of any applicable secrecy order and is subject to revocation without notice.

License Number: 534,351

Grant Date: 25-Mar-05

This license is granted retroactively to the date(s) and the country(s) indicated on the attached decision.

Approved:
for Commissioner of Patents and Trademarks

This license empowers the filing, the causation and the authorization of the filing of a foreign application or applications on the subject matter identified above, subsequent forwarding of all duplicate and formal papers and the prosecution of such application or applications.

This license does not empower the filing of any applications, amendments, supplements or continuances originating in this country which disclose inventions, modifications, or variations not disclosed in the subject matter identified above.

This license is to be retained by the licensee and may be used at anytime on or after the date thereof. This license is not retroactive unless specifically indicated.

The grant of this license does not in any way lesson the responsibility of the licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations, especially with respecct to certain countries, of other agencies, particularly the Office of Foreign Assets Control, Department of the Treasury; Office of Munitions Control, Department of State (with respect to Arms, Munitions and Implements of War); the Bureau of Trade Regulation, Office of Export Adminsttration, Department of Commerce; and the Department of Energy.

LICENSE FOR FOREIGN FILING

[Title 35, United States Code (1952) Sections 184, 185, 186]

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 6

IBM CORPORATION, PERSONAL & PRINTING SYSTEMS GROUP
INTELLECTUAL PROPERTY LAW
DEPT. 9CCA/BLDG. 002-2
P.O. BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

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MAY 1 2 2004

OFFICE OF PETITIONS

In re Application of	:	
Chao et al.	:	
Application No. 09/824,496	:	ON PETITION
Filed: April 2, 2001	:	
Attorney Docket No. RPS9 2000 0106	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 3, 2004, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 23, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 24, 2001. A Notice of Abandonment was mailed on February 9, 2004.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The file is now being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.

Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: JOSEPH A. SAWYER, JR.
SAWYER LAW GROUP, LLP
2465 E. BAYSHORE ROAD, SUITE 405
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

February 9, 2007

700 Koppers building
436 7th Ave.
Pittsburg, PA. 15219

Letter Regarding Request For Refund of Publication Fee

This is in response to the request for refund for patent/serial number 09/824510, in the amount of $300 for the publication fee.

The request is **dismissed** for the reason indicated below:

- ☑ The above-identified application was published in compliance with 35 U.S.C. 122(b). The publication fee set forth in 37 CFR 1.18(d) is required in each application published under 35 U.S.C. 122(b) and 37 CFR 1.211. See 37 CFR 1.211(e). Accordingly, the publication fee paid in the above-identified application was required and will not be refunded. Also see MPEP 1126.

- ☐ The Office's records for the above-identified application show that a publication fee of $300.00 was never received or processed. Therefore, no refund is due.

- ☐ The request for refund is prematurely filed. Applicant may file another request for a refund of the publication fee after four (4) weeks from the issue date of the patent if the application is not published as a patent application publication. The publication fee will not be refunded if the application is published as a patent application publication, even if it is published after the patent issues.

- ☐ A request for refund of the publication fee has already been processed. Therefore, no additional refund is due.

Telephone inquiries should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Kaletus King Kaletus King
Office of Patent Publication
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

CROWELL MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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SEP 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Christof Eberspacher et al.	:	
Application No. 09/824,570	:	DECISION ON PETITION
Filed: April 3, 2001	:	PURSUANT TO
Attorney Docket No. 225/49834	:	37 C.F.R. § 1.181
Title: SYNCHRONIZER RING	:	

This is a decision on the petition filed on February 21, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned due to the January 30, 2008 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on April 1, 2008,[1] the expiration of the period for seeking judicial review of this decision.[2] A Notice of Abandonment was mailed on February 5, 2008, prior to the expiration of this application.

1 Pursuant to MPEP § 1216(III), "[t]hese 2-month periods meet the 60-day requirement of 35 U.S.C. 142 and 145 except for time periods which include February 28. In order to comply with the 60-day requirement, 37 CFR 1.304(b) provides that an additional day shall be added to any 2-month period for initiating review which includes February 28. Appeals will always be timely if the judicial review is initiated within 2 months of the final decision."
2 See MPEP § 1216.

RELEVANT PORTIONS OF THE MPEP

MPEP § 1216(I) sets forth, *in toto*:

> An applicant for a patent who is dissatisfied with a decision of the Board may seek judicial review either by an appeal to the U.S. Court of Appeals for the Federal Circuit (35 U.S.C. 141 and 37 CFR 1.301) or by a civil action in the U.S. District Court for the District of Columbia (35 U.S.C. 145 and 37 CFR 1.303(a)). By filing an appeal to the Federal Circuit, the applicant waives the right to seek judicial review by a civil action under 35 U.S.C. 145. See 35 U.S.C. 141 and 37 CFR 1.303(b).

MPEP § 1216(III) sets forth, *in toto*:

> The time for filing a notice of a 35 U.S.C. 141 appeal to the Federal Circuit or for commencing a civil action under 35 U.S.C. 145 is within 2 months of the Board's decision. 37 CFR 1.304(a). However, if a request for rehearing or reconsideration of the Board's decision is filed within the time provided under 37 CFR 41.52 (ex parte appeals) or 37 CFR 41.79 (inter partes appeals), the time for filing a notice of appeal to the Federal Circuit or for commencing a civil action expires 2 months after a decision on a request for rehearing or reconsideration (37 CFR 1.304(a)).
>
> These 2-month periods meet the 60-day requirement of 35 U.S.C. 142 and 145 except for time periods which include February 28. In order to comply with the 60-day requirement, 37 CFR 1.304(b) provides that an additional day shall be added to any 2-month period for initiating review which includes February 28. Appeals will always be timely if the judicial review is initiated within 2 months of the final decision.
>
> The times specified in 37 CFR 1.304 are calendar days. If the last day of the time specified for appeal or commencing a civil action falls on a Saturday, Sunday, or a Federal holiday in the District of Columbia, the time is extended to the next day which is neither a Saturday, Sunday, nor a Federal holiday (37 CFR 1.304(b)).

ANALYSIS

With this petition, Petitioner has requested that the notice of abandonment be withdrawn, due to the fact that the notice was mailed prior to the expiration of the two month period for seeking judicial review of the decision of the Board.

Petitioner is correct in asserting that the notice was improperly mailed prior to the expiration of the two month period for seeking judicial review of the decision of the Board. However, this petition must be dismissed as Petitioner has not

submitted any evidence that judicial review was sought prior to the expiration of the above-referenced two month period.

CONCLUSION

On renewed petition, Petitioner should provide documentary evidence that establishes that judicial review of the January 30, 2008 decision of the Board for Patent Appeals and Interferences was sought prior to April 1, 2008.

If reconsideration of this decision is requested, any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may submit a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b) either independently or concurrently with any renewed petition pursuant to 37 C.F.R. § 1.181(a).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[3] hand-delivery,[4] or facsimile.[5] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[7]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.
6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

OIPE JC119
JUL 27 2001
PATENT & TRADEMARK OFFICE

Sector $

Docket No. 13761-7001

Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

[X] Pursuant to 37 C.F.R. § 1.8, I hereby certify that this paper and all enclosures are being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to the Assistant Commissioner for Patents, Washington D.C. 20231.

[ ] Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Examiner _____ at Facsimile No. _____ at ____ a.m./p.m.

Dated: July 25, 2001 Name of Person Certifying: _____
Printed Name: Laer Barrett

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Lenz, et. al.	Assignee:	
Filing Date:	April 2, 2001	Examiner:	
Serial No.:	09/824,629	Group Art Unit:	1645

Title: Manganese Superoxide Dismutase Gene Polymorphism for Predicting Cancer Susceptibility

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BOX MISSING PARTS
Assistant Commissioner for Patents
Washington, D.C. 20231

Submission of Missing Parts of Application Under 37 C.F.R. 1.53

Sir:

In response to the Notice of Missing Parts of Application mailed on June 6, 2001, enclosed are the following items for filing in the above-referenced U.S. Patent Application:

- [x] Declaration and Power of Attorney [3] page(s)
  Payment for surcharge for late filing [x] $65.00 *small entity* [ ] $130.00 *large entity*
- [ ] A Petition for Extension of Time. (__ months), [ ] page(s) Fee $ _____
- [x] Applicant(s) claim Small Entity Status under 37 CFR § 1.27.
- [x] Copy of Notice of Missing Parts of Application dated June 6, 2001.
- [ ] Request for Refund under 37 CFR 1.28(a) for the overpayment of the filing fee and surcharge.
- [x] Return Postcard.
- [x] Substitute drawings in compliance with 37 C.F.R. 184 (Figures 1 and 2).
- [x] Statement regarding Sequence Listing

☒ Preliminary Amendment

☒ Computer readable copy of Sequence Listing and written copy of Sequence Listing.

TOTAL FEES: $510.00

☐ Conditional Petition for Extension of Time: An extension of time is requested to provide for timely filing if an extension of time is still required after all papers filed with this communication have been considered.

☒ Check in the amount of $510.00 to cover the Total Fees due is enclosed.

☐ Please charge the above fee(s) to Deposit Account No. _____, Docket No. _____, in the amount of $_____ to cover the above fees. *A duplicate copy of this sheet is attached.*

☒ The Commissioner is hereby authorized to charge payment of any additional fees due or credit any overpayment to Deposit Account No. 50-1192, Docket No. 13761-7001. *A duplicate copy of this sheet is enclosed.*

Having now complied with all of the requirements of 37 C.F.R. 1.53, applicant respectfully requests that this application be placed upon the files for examination.

Date: July 25, 2001

Respectfully submitted,

By: _____
Rajiv Yadav
Registration No. 43,999

McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center, 18th Floor
San Francisco, California 94111
Telephone: (213) 680-6678
Telefax: (213) 680-6499

OIPE JC119
JUL 2 7 2001

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/824,629	04/02/2001	Heinz-Josef Lenz	13761-7001

CONFIRMATION NO. 8935

FORMALITIES LETTER

OC000000006155629

Rajiv Yadav
McCutchen, Doyle, Brown & Enersen, LLP
Three Embarcadero Center, 28th Floor
San Francisco, CA 94111

Date Mailed: 06/06/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
  Applicant must submit $ **355** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $90.
  - **$90** for **10** total claims over 20.
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is $ 510.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- **For Rules Interpretation, call (703) 308-4216**
- **To Purchase PatentIn Software, call (703) 306-2600**
- **For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov**

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAIL Paper No. 7

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

JUN 07 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Mikiya Suzuki
Application No. 09/824,643
Filed: April 4, 2001
For: **WAVELENGTH DIVISION MULTIPLEX TRANSMISSION SYSTEM**

DECISION GRANTING PETITION TO RESET PERIOD FOR REPLY

This is a decision on the petition filed on February 24, 2004, requesting that the shortened statutory period for reply set forth in the Office communication mailed on January 16, 2004 be reset to run from the date on which the Office communication was actually received at the correspondence address of record.

The petition is **GRANTED**.

Petitioner provided a statement that the Office action was received on February 12, 2004 and further provided evidence in the way of a copy of the Office action transmittal page having a date stamped by Venebal IP Docketing Department as being received on February 12, 2004. The petition was filed within two weeks of receipt of the Office communication. A substantial portion of the set reply period had elapsed on the date of receipt. The petition meets the criteria for restarting a time period to respond to an Office action as set forth in MPEP § 710.06.

Accordingly, the shortened statutory period that was originally set forth in the Office action originally mailed on January 16, 2004 is hereby reset to run THREE MONTHS FROM THE RECEIPT DATE OF February 12, 2004.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
1300 I STREET, NW
WASHINGTON, DC 20005

COPY MAILED

OCT 19 2004

OFFICE OF PETITIONS

In re Application of
Florent DuQueroie
Application No. 09/824,679
Filed: April 4, 2001
Attorney Docket No. 05725.0876-00

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee, filed October 19, 2004.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid March 16, 2004, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

After the application is received in the Office of Petitions, the file will be forwarded to Technology Center AU 3732 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JAN 16 2007

OFFICE OF PETITIONS

In re Patent of Gondouin	:	
Patent No. RE38,636	:	
Issue Date: October 26, 2004	:	Decision on Petition
Application No. 09/824,738	:	
Filing Date: April 4, 2001	:	
Attorney Docket No. 02376.0006-01000	:	

This is a decision in response to the petition under 37 CFR 1.377 filed December 19, 2006, requesting the Office determine the instant patent is not expired.

The petition is **GRANTED.**

Facts:

Application No. 07/814,585 issued as Patent No. 5,462,120 on October 31, 1995.

Petitioner filed Reissue Application No. 08/861,457 on May 22, 1997.

The 3.5 year maintenance fee was timely paid for Patent No. 5,462,120 on April 16, 1999.

Petitioner filed four continuation applications based on Application No. 08/861,457:
(1) 09/824,738 filed April 4, 2001,
(2) 09/871,813 filed June 4, 2001,
(3) 09/944,115 filed September 4, 2001, and
(4) 09/956,806 filed September 21, 2001.

Reissue Application No. 08/861,457 issued as Reissue Patent No. RE37,867 on October 8, 2002.

The 7.5 year maintenance fee and surcharge were paid on June 6, 2003, for RE37,867.

Reissue Application No. 09/824,738 issued as Reissue Patent No. RE38,636 on October 26, 2004.

Reissue Application No. 09/871,813 issued as Reissue Patent No. RE38,642 on November 2, 2004.

Reissue Application No. 09/944,115 issued as Reissue Patent No. RE38,616 on October 12, 2004.

Reissue Application No. 11/038,005 was filed as a continuation of Reissue Application No. 09/956,806 on April 8, 2005. The application is currently pending.

Reissue Application No. 09/956,806 issued as Reissue Patent No. RE39,141 on June 27, 2006.

Discussion:

A review of the facts demonstrates the instant patent is not, and has never been, expired. To the extent any Office records have indicated the patent is expired, the records are hereby vacated.

The Office will schedule a refund of the $200 petition fee.

PTO records will be updated to indicate the patent has not expired.

As a courtesy, the Office will now discuss the payment of the 11.5 year maintenance fee.

Per the MPEP, when a reissue patent issues based on an original patent, maintenance fee payments should be made for the reissue patent based on the schedule established for the original patent. The MPEP states a maintenance fee does not have to be paid for subsequent reissue patents. MPEP 501 states, "No payment of additional maintenance fees is required for second or subsequent reissue patents, i.e., continuation or divisional reissues (see MPEP 1451), which are derived from a first reissue patent which has issued."

Unfortunately, the Office finance system, RAM, currently updates multiple reissue patents only if the payment is made in the most recent reissue patent to be issued. If petitioner complies with the MPEP, and the Office employee who process the fee fails to recognize the need to move the fee to the newest reissue patent in RAM, problems may arise. Therefore, the Office of Petitions strongly suggests petitioner pay the 11.5 year fee for Reissue Patent No. RE39,141. However, if a reissue patent based on Reissue Application No. 11/038,005 issues prior to payment of the 11.5 year maintenance fee, then the 11.5 year fee should be applied towards the new reissue patent.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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JUL 14 2004

Paper No. 17

In re Application of
Romano Mark *et al*
Application No. 09/824,838
Filed: April 4, 2001
Attorney Docket No. 8932-392

DECISION ON PETITION

This is a decision on the petition filed on May 11, 2004 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the final Office action dated May 12, 2003. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required for the petition.

The petition is granted.

Petitioners allege that the application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on July 30, 2003. Petitioners have supported this allegation by furnishing a copy of the reply and a copy of a post card receipt showing that the reply was in fact received in the Office on July 30, 2003, a date within the time set for filing a reply to the Office letter in question. Based upon this showing, it is evident that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply filed on July 30, 2003, and will thereafter be forwarded to the examiner for appropriate action.

PETITION GRANTED.

E. Rollins-Cross, Director
Technology Center 3700

Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001-2113

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DEC 17 2008

OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

In re Patent No. 7,137,322	:	DECISION ON REQUEST FOR
Mark et al.	:	RECONSIDERATION OF
Issue Date: November 21, 2006	:	PATENT TERM ADJUSTMENT
Application No. 09/824,838	:	AND NOTICE OF INTENT TO ISSUE
Filed: April 4, 2001	:	CERTIFICATE OF CORRECTION
Attorney Docket No. 8932-392	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed January 22, 2007. Patentee requests that the patent term adjustment indicated on the above-identified patent be corrected from zero (0) days to two hundred fifty-five (255) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

Patentee is given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised patent term adjustment of **thirty-seven (37) days**.

Preliminarily, patentee is reminded that 35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 CFR 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall

be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment (and fee for application for patent term adjustment) prior to the payment of the issue fee. Thus, any application for patent term adjustment disputing the initial determination of patent term adjustment at the time of the mailing of the Notice of Allowance filed after payment of the issue fee may be dismissed as untimely filed.

However, in this instance, on May 31, 2006, the Office mailed the initial determination of patent term adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was 0 days. On August 28, 2006, patentee paid the issue fee. At the time of the mailing of the notice of allowance, there was no dispute as to the accuracy of this determination because as of the mailing of the notice of allowance, the undisputed periods of reduction for applicant delay exceeded the period of adjustment for Office delay. As the Office does not set forth negative balances of patent term adjustment, the initial determination of patent term adjustment of 0 days was properly not disputed.

However, upon issuance of the patent, a period of adjustment of 348 days pursuant to 37 CFR 1.702(b) was entered for the Office taking in excess of three years to issue the patent. In view thereof, the entry of the periods of reduction for applicant delay before the mailing of the notice of allowance became an issue. Under the circumstances, the application for patent term adjustment will not be dismissed as untimely filed, but will be considered on the merits.

With respect to the merits, patentee disputes the periods of reduction of 55 days, 299 days, and 164 days pursuant to 37 CFR 1.704(b).[1] Additionally, patentee asserts that the correct period of adjustment under 37 CFR 1.702(b) is 347 days, not 348 days.

The application history has been reviewed and it has been determined that the patent term adjustment indicated in the patent is incorrect.

---

[1] Patentee does not disagree with the reduction under 37 CFR 1.704(b) of 92 days for responding in excess of three months from the December 11, 2001 mail date of the nonfinal Office action.

As to the reduction of 55 days, the Office concludes that patentee was properly assessed a delay under 37 CFR 1.704(b). The record reveals that patentee filed a reply in compliance with 37 CFR 1.113(c) on February 4, 2003, in excess of the three-month period from the September 11, 2002 mailing date of the final Office action. Thus, patentee failed to engage in reasonable efforts to conclude prosecution of this application. Accordingly, the period of adjustment was properly reduced by 55 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, December 12, 2002, ending on the date the reply in compliance with § 1.113(c) was filed, February 4, 2003. See 37 CFR 1.704(b). Accordingly, the reduction of 55 days is warranted and will not be removed.

As to the reduction of 299 days, the application file confirms that a reply was filed on July 30, 2003. On May 11, 2004, patentee submitted a copy of the response accompanied by a copy of their itemized return postcard, associated with the filing of the response, with a USPTO date-stamp of July 30, 2003. The date-stamped and itemized postcard receipt serves as prima facie evidence that the original reply was received by the Office on July 30, 2003. See MPEP 503. Under these circumstances, the date of receipt of the response on July 30, 2003, should be properly used for purposes of calculating compliance with 37 CFR 1.704(b). The response was filed within the three-month of the May 12, 2003 mailing date of the nonfinal Office action. See 37 CFR 1.704(b). Patentee did not fail to engage in reasonable efforts to conclude processing by delaying in responding to the nonfinal Office action. Accordingly, the period of reduction of 299 days is not warranted and will be removed.

Patentee also disputes the reduction of 164 days pursuant to 37 CFR 1.704(c)(7). The record reveals that patentee filed a non-compliant amendment on May 11, 2004. In response, the Office mailed a Notice of Non-Compliant Amendment (37 CFR § 1.121) on September 22, 2004. On October 22, 2004, patentee filed an amendment correcting the omission. The submission of a non-compliant amendment is a proper basis for reduction of patent term under 37 CFR 1.704(c)(7). Accordingly, the period of adjustment of the term of the patent was properly reduced by 164 days, the number of days beginning on the day after the date the non-compliant amendment was filed, May 12, 2004, and ending on the date that the amendment correcting the omission was filed, October

22, 2004. Thus, the reduction of 164 days for the submission of a reply having an omission is warranted and will not be removed.

Patentee asserts that the period of adjustment under 37 CFR 1.702(b) is 347 days, not 348 days as indicated in the PTA Calculations. Pursuant to 35 U.S.C. 154(B)(1), § 1.703(b)(1) provides, in pertinent part that:

> the period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) ... and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

The filing of a RCE cuts-off an applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. Therefore, the period under 37 CFR 1.703(b) is counted beginning on the day after the date that is three years after the date on which the application was filed and ending on the day the RCE was filed. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

In this instance, patentee filed a RCE on March 18, 2005. Thus, the period of adjustment under 37 CFR 1.702(b) was correctly calculated as 348 days, counting the number of days beginning on the day after the date that is three years after the date on which the application was filed, April 5, 2004, and ending on the day the RCE was filed, March 18, 2005. See 37 CFR 1.703(b)(1).

Further, a period of adjustment of 297 days is acknowledged for the Office's failure to respond to a reply within four months after the date on which the reply was filed pursuant to 37 CFR

1.702(a)(2). As indicated above, patentee filed a reply on July 30, 2003. Patentee asserts that the Office did not respond to the reply until the mailing of the final Office action on December 21, 2004. The record reveals that the Office responded to the reply with the mailing of the Notice of Non-Compliant Amendment (37 CFR § 1.121) on September 22, 2004, four months and 297 days after the filing of the reply. See 37 CFR 1.703(a)(2). However, any days of delay for Office issuance of the patent more than three years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of adjustment of 348 days attributable to the delay in the issuance of the patent overlaps with the period of adjustment of 297 days attributable to grounds specified in 37 CFR 1.702(a)(2). Thus, no additional period of adjustment under 37 CFR 1.702(b) will be entered beyond the 348 days.

In view thereof, the patent should have issued with a revised patent term adjustment of **thirty-seven (37) days** (348 days of Office delay reduced by 311 days (92 + 55 + 164) of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by thirty-seven (37) days.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,137,322 B2

DATED : Nov. 21, 2006

INVENTOR(S) : Mark et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (0) days

Delete the phrase "by 0 days" and insert – by 37 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 3

MARK W ROBERTS
DORSEY & WHITNEY
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101

COPY MAILED

NOV 0 1 2001

OFFICE OF PETITIONS

In re Application of :
Simon Jacobs :
Application No. 09/824,849 :
Filed: April 2, 2001 :
Attorney Docket No. 500745.01 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2163.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

D.C. PETER CHU ESQ
DORSEY & WHITNEY
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101

COPY MAILED

FEB 12 2002

OFFICE OF PETITIONS

In re Application of :
Simon Jacobs et al :
Application No. 09/824,850 :
Filed: April 2, 2001 :
Attorney Docket No. 500744.01 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being forwarded to Technology Center AU 2151.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. 16

PILLSBURY WINTHROP LLP
PO BOX 10500
MCLEAN VA 22102

COPY MAILED

JUN 2 3 2003

OFFICE OF PETITIONS

In re Application of
Rasidescu, et al.
Application No. 09/824,878
Filed: April 4, 2001
Attorney Docket No. P 276825
RP-00208-US4

ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 15, 2003.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on April 4, 2001 with a nonpublication request and certification under 35 U.S.C. 122(b)(2)(B)(I). On May 17, 2002, applicant filed a Request to Rescind Previous Nonpublication Request.

With the instant petition, applicant states that the application was foreign filed on June 13, 2002.

As the Request to Rescind Previous Nonpublication Request was filed before the foreign filing, the application will be treated as if the nonpublication request was never made.[1]

As requested, the Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded.

The petition fee of $1,300 has been refunded to Deposit Account No. 03-3975.

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[1] See "Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. 122(b)(2)(B)(ii)-(iv)", available at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/35usc122b2binterpret.htm.

The application file is being forwarded to Technology Center 3600.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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JJGJR.: 06-04

Paper No: 9

BLAKELY SOKOLOFF
TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
/SEVENTH FLOOR
LOS ANGELES CA 90025

COPY MAILED
JUN 1 7 2004
OFFICE OF PETITIONS

In re Application of
Fliflet :
Application No. 09/824,887 :
Filing Date: 2 April, 2001
Attorney Docket No. 042390.P10580 :

This is a decision on the petition filed on 15 April, 2004, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

For the reasons set forth below, the petition as considered under 37 C.F.R.§1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- it appeared that Petitioner failed to reply timely and properly to the Office action in the form of a Communication (a/the Communication) mailed on 7 October, 2003;
- Notice of Abandonment was mailed on 11 March, 2004;
- with the instant petition Petitioner Farzad E. Amini (Reg. No. 42,261) included, *inter alia*: his statement that the Communication appeared to be informational and had no deadline for a reply date, and attached documents including the Communication, which carried only the following statement: "Applicant added claims 19-38, but claims 37-38 [are] missing in the amendment."

NOTE: Petitioner is reminded of the guidance/commentary at MPEP §§714.02 and 714.03.

On review, it appears that the Examiner's Office action or Communication mailed on 7 October, 2003, was to bring to Petitioner's attention the inconsistency between what Petitioner stated was to be found in his amendment and what actually was present in that amendment.

In fact, the file jacket of the application indicates that the 7 October, 2003, Communication was a "[Notice of] Non Responsive Amendment," although that was not the title of the Communication as mailed.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7]

Petitioner evidences that the Communication as mailed did not contain a reply deadline date, and so Petitioner satisfies the showing as required under 37 C.F.R. §1.181.

CONCLUSION

Because Petitioner satisfied the burdens set forth in Delgar v. Schulyer, the petition under 37 C.F.R. §1.181 hereby is **granted**, the 11 March, 2004, Notice of Abandonment is **vacated**, and the petition fee is waived.

The file is being forwarded to Technology Center 2600 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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JJGJR.: 03-05

Paper No: __

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO CA 92130-2332

COPY MAILED

MAR 07 2005

OFFICE OF PETITIONS

In re Application of
Gruenberg :
Application No. 09/824,906 :
Filing Date: 2 April, 2001
Attorney Docket No. 549172000113 :

This is a decision on the petition filed on 28 January, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- a non-final Office action was mailed on 23 February, 2004, with reply due absent extension of time on or before 23 May, 2004;
- although the claims had not already been twice rejected, Petitioner filed a Notice of Appeal (and fee) on 23 August, 2004, along with a request and fees for an extension of time, however, Petitioner failed to file an amendment as the proper reply to the non-final Office action;
- the application was abandoned after midnight 23 August, 2004;

- Notice of Abandonment was mailed on 30 November, 2004;
- in the instant petition (with fee), Petitioner alleges and makes the statement of unintentional delay, and submits an amendment as the reply.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a showing/statement of unavoidable delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner has satisfied the requirements of the regulation

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The application is released to Technology Center 1600 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
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Paper No.

MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

COPY MAILED

MAY 1 5 2003

OFFICE OF PETITIONS

In re Application of :
Lori Greiner :
Application No. 09/824,937 :
Filed: April 3, 2001 :
Attorney Docket No. 13345.36US01 :

ON PETITION

This is a decision on the petition, filed May 13, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 4, 2003 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The correspondence filed on May 13, 2003 is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Deakin T. Lauer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

Telephone inquiries should be directed to Wan Laymon at (703) 306-5685.

After receipt of the application in the Office of Petitions, the application will be forwarded to Technology Center AU 1646 for processing of the request for continued examination under 37 CFR 1.114 and the currently filed IDS.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

John X. Garred
TUCKER, ELLIS & WEST LLP
1150 Huntington Building
925 Euclid Avenue
Cleveland, OH 44115-1475

MAIL

AUG 2 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2100

In re Application of:
James Ching-Liang Huang
Application No. 09/824,951
Filed: April 3, 2001
For: SINGLE SWITCH IMAGE FOR A STACK OF SWITCHES

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed June 22, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed June 22, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Richard Mitchell
MARKS & CLERK
280 Slater Street, Suite 1800
Ottawa Ontario, K1P 1C2
Canada

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC
P.O. BOX 1995
VIENNA, VA 22183

Mail Date: 07/26/2010

Applicant	: Grenville J. Armitage	: DECISION ON REQUEST FOR
Patent Number	: 7650424	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/824,960	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/03/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2791** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.